INDEX

ARTICLES

G. Broggini, Some Remarks on Private International Law and Economics . . 277

L. Collins, Practical Problems of the 1982 Accession Convention to the 1968 Brussels Convention (in English) 17

A. Frignani, Public Intervention in International Contracts 557

F. Mosconi, Lex fori v. lex causae? 813

F. Pocar, New Trends of Brussels Convention on Jurisdiction and the Enforcement of Judgments after the Accession of New States 5

N. Ronzitti, Implementation of EEC Law by Regions and Autonomous Provinces 587

I. Seidl-Hohenveldern, ELSI and Badger. The Two Raytheon Cases (in English) 261

F. J. Zamora Cabot, Mass Accidents and Forum Non Conveniens: the Bhopal Case (in Spanish) 821

REVIEWS

C. Campiglio, Polygamous Marriage and Repudiation in the Legal Experience of Western European Countries 853

S. M. Carbone - S. Bariatti, The Last Decade Interpretation of International Maritime Conventions by Italian Case Law (in English) 31

L. Migliorino, Joint Ventures Laws of Socialist States: Conflict of Laws and Jurisdictions 599

SHORTER ARTICLES, NOTES AND COMMENTS

P. Celle, Foreign Bankruptcy Decision and Foreign Defendant 301

F. Cristiani, Public Policy in the Recognition of Foreign Divorces by Consent 951

L. Danieli, The European Court of Justice and the Rome and Lugano Conventions 917

V. Delicato, Extradition and Death Penalty in the New Criminal Procedure Code 313

A. De Santis, Italian Jurisdiction in Matrimonial Matters and Reciprocity . . 63

T. Faranda, Social Security for Italian Workers in non-EEC States: Law 398/87 and the European Convention 329

rnational Judicial Assistance and the New Criminal Pro- 43
10, Jurisdiction in Matters of International Sales . . . 621
reatment of Foreign Law in Civil Courts: a Comparison and French Case Law 941
pons as a Part of Equipment of a Foreign Vessel and tion of the Coastal State 931
isdiction and Foreign Arbitration: Some Problems on Re- 631
n Economic Sanctions against Irak 909

IN MEMORIAM

o Scerni (1907-1990) 961

CASES IN ITALIAN COURTS

5, 36, 37, 45, 49.
5, 26, 27, 41, 46, 47, 67, 72.

.

Community: 8, 9, 10, 20, 42, 46, 88.
7, 30.

9.

nd administrative acts: 1, 4, 5, 6, 17, 22, 30, 34, 45, 53, 60, 62,

Relations between parents and children: 56.

Sea: 81.

Social security: 8, 9, 10, 20.

Successions: 70.

Treaties and general international rules: 1, 5, 11, 12, 13, 16, 17, 18, 19, 22, 23, 24, 25, 28, 30, 31, 32, 33, 34, 37, 38, 40, 41, 50, 55, 56, 58, 60, 61, 62, 63, 64, 66, 67, 71, 72, 74, 78, 79, 80, 81, 83, 86, 87, 88.

1. *Court of Cassation, 3rd May 1986 n. 3015* 409

In case of the enforcement of an Austrian judgment, according to Art. 9 of the Convention dated 16th November 1971 between Italy and Austria, the proof that the defendant has been duly served with the summons can be supplied also through a certification of the Clerk of the foreign judge.

Referring to the translation of the writ of summons before the Austrian judge and of the judgment passed by the same judge, Art. 3 of the Hague Convention dated 1st March 1954 on Civil Procedure does not consider the translation of the deed to be notified as a requirement for the enforcement of the judgment itself, but as a burden whose aim is the obligation to serve upon the requested authority. For its part, the Vienna Convention dated 30th June 1975 between Italy and Austria, additional to the Hague Convention, does not provide for the obligation of translation, but the asseveration is necessary in case the translation is submitted.

Even though Art. 4 of the Vienna Convention of 1975 provides that the application for service must be submitted to the competent Pretore, the nullity of the summons to appear before the Austrian judge, carried out by the Justice of the Peace, is affirmed if the service has been effected in the addressee's hands.

The Austrian judgment condemning an Italian father to pay maintenance to a minor child is not contrary to public policy, even though the natural fatherhood has been confirmed according to the witness of the child's mother, considering that the two parts of the foreign judgment, the declaration of the status of natural child and the maintenance order, can be divided according to principles contained in the New York Convention dated 20th January 1956 on the Recovery of Maintenance Abroad, and in the Hague Conventions dated 24th October 1956 and 15th April 1958 on Maintenance Obligations towards Children, and in the Brussels Convention dated 27th September 1968 on Jurisdiction and Enforcement of Judgments.

An Austrian judgment which obliges the natural father to pay maintenance to a minor child can be enforced even though the action has been carried out by the guardian, according to Austrian law, as it is not in contrast with Art. 7 n. 2 of the Convention dated 16th November 1971 between Italy and Austria, if the claimed violation of Italian rules on the child's legal representation, allowing his mother's witness, has given the child a better protection.

2. *Court of Cassation, 16th December 1986 n. 7529* 1029

If, according to Art. 18 of the Preliminary Provisions to the Civil Code, the separation of an Italian and a foreign spouse is governed by a foreign law leaving to the judge's discretion the decision as to the minors' custody, the criteria laid down by Art. 155 of the Civil Code can be used

as they are expression of a principle (the children's interest) common to many nations having similar culture.

3. *Court of Cassation, 12th June 1987 n. 5125* 164

Art. 76 of Law dated 4th May 1983 n. 184 on Adoption establishing that the previous provisions apply to adoption proceedings still in course or already settled at the entry in force of the said law, refers to the complete adoption iter.

4. *Court of Cassation, 25th June 1987 n. 5589* 165

The declaration of enforcement of a foreign decision as per Art. 32 of Law dated 4th May 1983 n. 184 on Adoption does neither constitute a real enforcement pursuant to Arts. 797 and 801 of the Civil Procedure Code, nor attribute the same effects the decision performs in the State of origin.

A foreign adoption decision based on the consent of the natural parent is not contrary to public policy as per Art. 32, paragraph 1 *c*) of the Law on Adoption.

5. *Court of Cassation, 16th November 1987 n. 8375* 168

When hearing the appeal against an enforcement judgment, the Court of Cassation is bound by the opinions of the first court as regards the ascertainment of the competence of the foreign judge or of the arbitrator judging abroad.

The review as to substance during a foreign arbitral award's enforcement is not admissible according to the New York Convention dated 10th June 1958.

6. *Court of Cassation, 19th November 1987 n. 8506* 166

A foreign adoption decision based on the consent of the natural parent is not contrary to public policy as per Art. 32, paragraph 1 *c*) of the Law on Adoption.

7. *Monza Tribunal, 30th January 1988* 649

The mandatory provision contained in Art. 2 of the Decree Law dated 6th June 1956 n. 476 (prohibiting obligations among residents and non-residents, save ministerial authorization) applies to obligations arisen before the entry into force of the subsequent Law of 26th September 1986 n. 599, which modified the discipline on the subject.

8. *Court of Cassation, 4th February 1988 n. 1172* 418

If an employee draws a pension because of social security contributions paid in Italy and in Germany, family allowances are governed only by Community Regulation dated 14th June 1971 n. 1408, which provides for their distribution only for the dependent children and not for the dependent spouse. Neither is for this last one the more favourable provision of Art. 4 of the Decree Law dated 2nd March 1974 n. 30 applicable.

9. *Court of Cassation, 6th February 1988 n. 1315* 418

According to Art. 10, n. 1 first paragraph of Community Regulation dated 14th June 1971 n. 1408, Art. 26 of Law dated 30th April 1969 n. 153, which subordinates the payment of the non-contributory pension to the residence of the Italian citizen in Italy, is not applicable to Italian

citizens who transfer their residence in the territory of another Member State of the European Economic Community.

10. *Court of Cassation, 25th February 1988 n. 2033* 418

According to Art. 9 n. 2 of Community Regulation dated 14th June 1971 n. 1408, social security periods matured in one of the Member States can be summed in order to reach the obligatory insurance period requested in each State for the admission to the voluntary or continued facultative insurance, but it does not affect the requirements of the national laws for the admission to the voluntary carrying on of the contributions.

11. *Court of Cassation (plenary session), 1st March 1988 n. 2156* 703

An action concerning the performance of exclusive sales rights in Italy on products of a German company is subject to Italian jurisdiction because the obligation in question, according to Art. 5 n. 1 of the Brussels Convention dated 27th September 1968, must be carried out at the agent's seat in Italy.

A verbal clause conferring jurisdiction to the German judge is not valid if it has not been evidenced in writing according to Art. 17 of the Brussels Convention.

12. *Milan Court of Appeal, 8th March 1988* 155

According to Art. 5 n. 1 of the Brussels Convention of 1968, the Italian judge is not competent to hear a case concerning payment of the sold goods if this obligation, pursuant to the French applicable law, had to be fulfilled at the defendant's domicile in France.

13. *Court of Cassation (plenary session), 23rd March 1988 n. 2549* 170

The General Headquarters of the Allied Forces in Southern Europe is not subject to Italian jurisdiction as regards employment disputes with its personnel enjoying international status.

The civilian employees of the General Allied Headquarters in Italy fall within the category of personnel enjoying international status when they hold permanent administrative offices within the institutional activities of the same Headquarters and their salary is ruled by NATO tariffs.

14. *Court of Cassation, 30th March 1988 n. 2675* 164

Art. 76 of Law dated 4th May 1983 n. 184 on Adoption establishing that the previous provisions apply to adoption proceedings still in course or already settled at the entry in force of the said law, refers to the complete adoption iter.

15. *Livorno Tribunal, 21st April 1988* 1030

According to Art. 9, second paragraph of the Law on Bankruptcy, the winding up of a foreign shipping company already subject to a judicial arrangement abroad can be declared in Italy if this company has carried out a commercial activity in Italy through Italian shipping agents and if it owns here valuable assets.

16. *Court of Cassation (plenary session), 19th May 1988 n. 3468* 704

According to the customary international law provision "par in parem non habet iurisdictionem", implemented through Art. 10, first paragraph of the Constitution, the employment relationship with the embassy of a foreign State in Italy is exempt from Italian jurisdiction, if it implies

managerial and independent functions and, as such, it involves the employee's assignment in the public organization of the State itself, for the pursuit of his institutional purposes.

17. *Court of Cassation, 21st May 1988 n. 3537* 96

The Italian-Swiss Convention dated 3rd January 1933 and the Hague Convention dated 1st June 1970 provide for the jurisdiction of the foreign judge, in case of the enforcement of a foreign divorce judgment, if based on the residence of the defendant.

In order to enforce a foreign divorce judgment, the possible differences between the foreign law applied by the foreign judge and the law applicable according to Italian provisions of private international law are of little importance, as long as they do not lead to results contrary to international public policy.

Owing to the entry into force of the Hague Convention dated 1st June 1970 and the Law on Divorce dated 6th March 1987 n. 74 (Art. 4, thirteenth paragraph), a foreign divorce judgment ascertaining the breaking off of the marriage, desuming it only from the spouses' remarks, can be recognized in Italy.

18. *Court of Cassation, 2nd June 1988 n. 3761* 341

Jurisdiction is not ruled by Art. 2 of the Italian-Swiss Convention dated 3rd January 1933 on the enforcement of judgments.

According to Art. 31.1 *b*) of the Geneva Convention dated 19th May 1956 on the Carriage of Goods by Road, the Italian judge has jurisdiction if the contested goods has to be delivered in Italy.

According to Art. 1689, first paragraph of the Civil Code and Art. 13 of the Geneva Convention of 1956, the goods' consignee can assert to the carrier both the right to the goods' restitution and the right of compensation of damages if the loss of the goods is confirmed.

As the Geneva Convention of 1956 regulates the carriage and not the forwarding of the goods, it is impossible for the carrier, after referring to the Convention, to consider himself a mere forwarding agent.

According to Art. 23 of the Geneva Convention of 1956, the compensation is calculated by reference to the value of the goods at the place of departure and the time of the advance payment, considering the devaluation.

19. *Court of Cassation (plenary session), 10th June 1988 n. 3951* 170

Art. VIII, sixth paragraph of the London Convention dated 19th June 1951 excludes the substitution of the residence State with the guest State in case of damages caused by soldiers or civilians off duty, including the unauthorized use of any vehicle belonging to the armed forces of the guest State with the only exception, provided for by paragraph 7, when the "force" or the "civilian" is legally responsible.

20. *Court of Cassation, 21st June 1988 n. 4241* 707

The national legislator is not obliged to restrain from attributing further benefits in addition to those provided by EEC law in matters governed by it.

Family allowance is due to all pensioners who benefit the minimum pension and it must be entirely given not only to the dependent spouse, but also to subjects receiving a minimum pension partially paid by another EEC State.

21. *Court of Cassation (plenary session), 7th July 1988 n. 4478* 708

Foreign States and other subjects of international law enjoy immunity from Italian jurisdiction for activities connected with the exercise of their sovereign functions or aimed at pursuing their institutional purposes.

The Italian judge lacks jurisdiction on the application for conservative seizure of assets in Italy belonging to Lybia submitted in order to protect credits deriving from journalistic activities carried out in favour of the latter State.

22. *Court of Cassation, 13th July 1988 n. 4592* 99

In case of the enforcement of a foreign arbitral award according to the New York Convention dated 10th June 1958, the control about the formal validity of the arbitral clause is not possible, particularly regarding the regularity of subscriptions, if the question has been answered affirmatively in case both by the arbitrators and the Italian judge, who previously declared his own lack of jurisdiction due to the validity of the arbitral clause.

23. *Court of Cassation (plenary session), 15th July 1988 n. 4637* 171

According to Art. 8 of the Paris Agreement dated 26th July 1961 between the Italian Government and the Supreme General Headquarters of the Allied Forces in Europe, civilian employees of the General Allied Headquarters in Italy fall within the category of personnel enjoying international status, which is exempt from Italian jurisdiction, when their salary is ruled by NATO tariffs and they hold permanent administrative offices within the institutional activities of the Headquarters itself.

24. *Court of Cassation, 10th August 1988 n. 4905* 103

According to Art. 10 of the Navigation Code, the carriage by sea is ruled by the national law of the ship, save different will of the parties.

In international carriage by sea, the Brussels Convention dated 25th August 1924 on the bill of lading, as per its Art. 10, is applicable only in case the bill is issued in one of the Contracting or Adherent States and it can rise to governing law of the relationship only if it is incorporated in the law applicable according to conflict of laws rules. This happens only if the will of the parties rises to connecting factor for the determination of the applicable law, considering that, otherwise, convention rules are given mere contractual value; that is to say they cannot be applied if contrary to compulsory rules of the applicable law.

25. *Court of Cassation, 12th August 1988 n. 4943* 709

In the case of international carriage of goods governed by the Berne Convention dated 25th February 1961 concerning the Carriage of Goods by Rail, if the damage occurs because of the lacking of observance, during the loading in the departure station, of the necessary measures to protect against normal carriage risks, Art. 27, paragraph 3 *c*) of the said Convention applies. Such Article excludes the responsibility of the railways when the loading has been effected by the sender according to the applicable provisions or to the agreements resulting in the bill of freight.

26. *Court of Cassation, 5th September 1988 n. 5021* 106

Labour relationship, being constituted of contractual obligations, is ruled by Art. 25, first paragraph of the Preliminary Provisions to the Civil Code, save the limit of international public policy.

Italian law applies to a labour relationship carried out abroad between an Italian company and a Italian employee.

The territorial limits of collective agreements is neither necessarily, nor presumably, restricted to the Italian territory, save different and explicit will of the contracting parties.

In the application of a collective agreement to labour activities carried out abroad it is necessary to establish which clauses can or can not apply.

The right to thirteenth month's salary, to cash and diploma allowance and to be paid for overtime must be recognized to an Italian employee, who worked in Libya for an Italian building firm.

27. *Court of Cassation, 6th September 1988 n. 5058* 117

Collective labour agreements are effective within the national territory and they are not applicable to working activities carried out abroad, save different, explicit will of the contracting parties.

28. *Genoa Tribunal, 12th September 1988* 120

In order to decide upon the validity of a clause excluding Italian jurisdiction, the parties to the clause are the parties which, being the successors in the contractual relationship, have the legitimatio ad causam.

Art. 17 of the Brussels Convention dated 27th September 1968 applies when at least one of the parties to the jurisdiction agreement is domiciled in the territory of one of the Contracting States.

According to Art. 17 of the Brussels Convention of 1968 (as amended by the Luxembourg Convention dated 9th October 1978) the clause excluding Italian jurisdiction in a bill of lading, signed only by the carrier, is valid.

According to Art. 4 n. 1 of the Civil Procedure Code, the request for preventive expert assessment presented to the Italian judge can not be construed as acceptance of jurisdiction.

According to Art. 18 of the Brussels Convention of 1968, it is not possible to infer acceptance of Italian jurisdiction from the behaviour of the defendant who, after contesting preliminarily the jurisdiction, subordinately files a defense on merits.

29. *Catania Tribunal, 21st September 1988* 1032

Following the declaration of partial constitutional illegitimacy of Art. 18 of the Preliminary Provisions to the Civil Code, the criterion of the common residence applies in order to determine the law applicable to the separation of spouses having different nationality.

30. *Venice Court of Appeal, 30th September 1988* 345

Art. 799 of the Civil Procedure Code can not be applied in order to obtain the interlocutory enforcement of a foreign criminal judgment.

The power of a State to confiscate its own currency according to its exchange control law can be carried out only on the currency within the territory where the State exercises its sovereignty.

A State can not exercise an "eminent right" on its own currency in order to claim the property on it abroad, if such property has been acquired by another subject.

Art. 25, second paragraph of the Preliminary Provisions to the Civil Code, according to which non-contractual obligations are governed by the law of the place where the event occurred out of which such obligations arise, does not refer to penal or exchange control provisions of a foreign

legal system, which can not produce effects in Italy as per Arts. 28 and 31 of the Preliminary Provisions, but to the foreign civil law.

If the event giving rise to a non-contractual obligation is qualified in the legal system where it has occurred not only as penal and monetary offence but also as fraudulent issue, causing damages for which compensation has to be made, the foreign civil provision can be applied in Italy according to Art. 25, second paragraph of the Preliminary Provisions to the Civil Code.

The prohibition to give enforcement in a State to contracts contrary to exchange control regulations of another State, according to Art. VIII, sec. 2 *b*) of the Agreement establishing the International Monetary Fund, does not apply if the purchase of a State's currency, which afterwards has been illegittimately exported from its territory, occurred in another State.

31. *Court of Cassation (plenary session), 17th October 1988 n. 5628* . . . 705

According to the customary international law provision "par in parem non habet iurisdictionem", labour disputes concerning relations which, for the nature of the manual or mechanical tasks actually performed, do not concern the fulfilment of the public organization activities of the foreign State, are subject to Italian jurisdiction.

32. *Court of Cassation (plenary session), 24th October 1988 n. 5739* . . . 155

The Vienna Convention dated 11th April 1980 on Contracts for the International Sale of Goods applies to contracts stipulated after its entry into force.

Italian judges are competent to hear a case concerning payment request of the goods proposed by the Italian seller to the purchaser domiciled in Germany, according to Art. 5 n. 1 of the Brussels Convention of 1968 and to Art. 59 of the Hague Convention of 1964 on international sale.

33. *Court of Cassation (plenary session), 12th November 1988 n. 6126* . . . 155

According to Art. 5 n. 1 of the Brussels Convention dated 27th September 1968, the Italian judge is not competent to hear a case concerning the request of payment of an amount which, in compliance with the Italian applicable law, had to be effected at the domicile of the debtor in Germany.

34. *Court of Cassation, 16th November 1988 n. 6194* 710

The application submitted by the Ministry of the Interior, as intermediary institution pursuant to the New York Convention of 20th June 1956, asking for the enforcement of a foreign judgment providing for the payment of maintenance in favour of a minor, is not hindered by the fact that the enforcement of the part of the judgment relating to the ascertainment of relative filiation is not asked.

35. *Court of Cassation, 25th November 1988 n. 6344* 128

The service in the place of residence of the addressee resulting from the registry office as per Art. 140 of the Civil Procedure Code is not valid if the addressee has moved and the applicant knows, or, with ordinary diligence, can know the real place of residence, abode or domicile where the service must be carried out, according to Art. 139 of the Civil Procedure Code. Particularly, if the addressee has moved abroad, the service must be carried out according to the provision of Art. 142 of the Civil Procedure Code.

36. *Court of Cassation, 30th November 1988 n. 6502* 130

The service of the acceptance of a gift to the donor resident abroad, carried out as per Art. 142 of the Civil Procedure Code, can not be considered ritually effected, if the impossibility of carrying it out, according to international conventions in force or to Presidential Decree dated 5th January 1967 n. 200, is not proved.

37. *Court of Cassation (plenary session), 12th December 1988 n. 6756* . . . 134

An agreement on jurisdiction stipulated according to Art. 17 of the Brussels Convention of 1968 can not exclude the application of the principle about lis alibi pendens pursuant to Art. 21, which can not be subject to the will of the parties.

The concept of lis alibi pendens according to Art. 21 of the Brussels Convention as construed by the European Court of Justice in the judgment dated 8th December 1987 in case n. 144/86, is independent from the same notion in national systems of law and implies title and object identity in a broad sense.

According to Art. 21 of the Brussels Convention, lis alibi pendens exists between two proceedings pending in two different Contracting States based on the same legal relationship, even though the requests mutually made by the parties are not formally identical, but in any case derive from that relationship, as in the case of request of damages for the breach of an agency contract by the principal and the request of cancellation of the same contract proposed, respectively, in France and in Italy.

The resort to the procedures laid down by Art. 142, first and second paragraph of the Civil Procedure Code for the service of the summons to a person resident abroad is allowed only if the applicant is unable to effect the delivery of the deed abroad according to international conventions or to Presidential Decree dated 5th January 1967 n. 200. Lacking such prove, the service is null, and this nullity can be rectified ex nunc through the appearance of the defendant, from which the pendency of the proceedings in Italy starts.

38. *Lecco Tribunal, 15th December 1988* 357

With reference to Art. 5 n. 1 of the Brussels Convention dated 27th September 1968, the criterion of locus destinatae solutionis must be ascertained according to the law which governs the disputed obligation pursuant to private international law provisions of the seized judge.

According to Art. 57 of the Brussels Convention, the jurisdiction criteria contained in other conventions signed by the Contracting Parties prevail when they govern jurisdiction in particular matters.

The Hague Convention dated 1st July 1964 on international sale is considered as lex specialis compared to the Brussels Convention of 1968.

The Hague Convention of 1964 applies only among Contracting States.

39. *Criminal Court of Cassation, 10th January 1989* 711

Italian judge lacks jurisdiction to hear a case concerning the issue and the validity of a foreign administrative document (as the passport) or to set any limits to it.

40. *Court of Cassation (plenary session), 13th January 1989 n. 103* . . . 155

According to Art. 5 n. 1 of the Brussels Convention of 1968 and Art. 59 of the Hague Convention of 1964 on the international sale, the Italian judge is not competent to hear a case relating to the request proposed

by the Italian purchaser against the Dutch seller, to obtain a declaratory judgment ascertaining that a certain amount is not due.

According to Art. 18 of the Brussels Convention of 1968, there is no tacit acceptance of the jurisdiction if the foreign defendant appeared in the proceedings preliminarily contesting the jurisdiction of the seized judge.

41. *Milan Tribunal, 23rd January 1989* 142

In order to determine the place of performance of the obligation in question, laid down by Art. 5 n. 1 of the Brussels Convention dated 27th September 1968 as a jurisdiction criterion, it is necessary to establish the law applicable to the disputed relationship to which rules of private international law of the lex fori refer.

According to Art. 25, first paragraph of the Preliminary Provisions to the Civil Code, a contract for professional services between an Italian lawyer and a French company, entered into in Italy, is ruled by Italian law.

Italian jurisdiction exists in a dispute referring to the payment of lawyer's fees when the bank credit of the previous fees has been made in Italy, denoting in this way a tacit agreement on the place of performance (Art. 1182, first paragraph of the Civil Code), which is admissible also for illiquid pecuniary credits.

42. *Council of State (6th Session), 24th January 1989 n. 30* 712

Unlike EEC Regulations and some Directives, whose provisions are complete as regards their implementation, Decisions do not have general effects but have the same value as Directives addressed to Member States which can not apply directly, as they do not have a clearly defined content.

The result pursued by an EEC Commission's Decision declaring an Italian Law incompatible with Art. 92 of the EEC Treaty can not be obtained through the mere annulment by an administrative act of ministerial circulars issued in order to enforce the said Law, but the repeal of the Law itself is necessary.

43. *Court of Cassation, 25th January 1989 n. 411* 363

According to Art. 4, first paragraph of Law dated 1st December 1970 n. 898 on Divorce, as amended by Art. 8 of Law dated 6th March 1987 n. 74, the application for divorce by spouses resident abroad can be submitted to any Italian court.

As the hypothesis of both spouses being resident abroad is not contemplated by the Law of 1970, Art. 8 of Law n. 74 of 1987 must be immediately applied to pending proceedings.

According to Art. 3 n. 2 *e)* and to the Law on Divorce, any Italian court is competent to decide upon a divorce application filed by the Italian spouse against the foreign spouse if both are resident abroad.

44. *Court of Cassation, 25th January 1989 n. 417* 365

Following the judgment passed by the Constitutional Court on 18th February 1988 n. 183 concerning Art. 79, first paragraph of the Law on Adoption, the possibility of broadening the effects of the legitimating adoption to minors (even foreign) adopted through ordinary adoption, thus eliminating the hindrance represented by the maximum age difference between the adopter and the adopted, has been widened.

45. *Court of Cassation (plenary session), order 27th January 1989 n. 24* . . 367

The appeal for preliminary ruling on jurisdiction proposed during a

proceedings for the enforcement of a foreign arbitral award calling on the invalidity of the arbitral clause is inadmissible as this issue concerns the merits of the enforcement proceedings and not Italian judges' jurisdiction.

It is commonly hold by courts that the party proposing preliminary ruling on jurisdiction advancing a merits issue not related to this procedure is responsible pursuant to Art. 96, first paragraph of the Civil Procedure Code and is therefore bound to pay to the counterpart a compensation for the damage.

46. *Piemonte Regional Administrative Tribunal (2nd Session), 8th February 1989 n. 34* 715

The system laid down by Art. 17, second paragraph of Law dated 11th March 1988 n. 67 on public works contracts, providing for the determination and rejection of tenders based on an automatic arithmetical calculation, is in contrast with Art. 29 of the EEC Directive n. 305/71 and therefore can not apply; any administrative act issued on the basis of the applicability of such provision is null.

47. *Court of Cassation, 13th February 1989 n. 881* 370

The temporary assignment of the employee abroad usually appears as a contractual issue not relevant for the purposes of the characterisation of the relationship on the whole.

The employment contract between an Italian company and an Italian employee is ruled by Italian law, pursuant to the common nationality of the parties, if there is not a different will of the contracting parties (Art. 25 of the Preliminary Provisions to the Civil Code).

48. *Rome Court of Appeal, 22nd February 1989* 718

The condition of reciprocity, to which the enjoyment of civil rights by a foreigner is subject, pursuant to Art. 16 of the Preliminary Provisions to the Civil Code, must be intended as an equivalence of treatment, that is to say as lack of discrimination against the Italian citizen abroad, irrespective of the absence in the foreign legal system of an equal or similar right in favour of Italian citizens.

49. *Florence Court of Appeal, 27th February 1989* 147

Summary measures can be obtained even by a foreign entrepreneur on the basis of a credit documented by invoices issued according to forms laid down in the State of issue. In fact, there is not any provision in Italian law which prevents a foreigner from trying such proceedings.

50. *Court of Cassation (plenary session), 1st March 1989 n. 1109* 1034

Pursuant to Art. 8 of the Paris Agreement of 26th July 1961, the civilian employees of the General Headquarters of the Allied Forces in Southern Europe fall within the category of personnel enjoying international status, exempt from Italian jurisdiction, when there are the conditions set forth by Atlantic Council Ruling of 10th February 1954, that is to say when their salaries are based on NATO tariffs and when they hold permanent administrative offices within the institutional activities of the Headquarters itself; it is not further required the lack of Italian nationality (Art. 1, first paragraph, *a*) of the London Convention of 19th June 1951).

51. *Rome Tribunal, 7th March 1989* 1036

Following the declaration of partial constitutional illegitimacy of

Art. 18 of the Preliminary Provisions to the Civil Code, Art. 17 of the same Provisions applies to a divorce between spouses having different nationality.

52. *Court of Cassation (plenary session), 15th March 1989 n. 1283* . . . 375

Pursuant to Art. 4 n. 2 of the Civil Procedure Code the characterization of the legal issue in order to determine the jurisdictional criterion applicable to it is governed by the lex fori.

In order to apply Art. 4 n. 2 of the Civil Procedure Code, a sale contract can not be entered into through a phone conversation or an exchange of letters if subsequently the parties undertake a further correspondence containing a new proposal and a new acceptance, from which the will of the parties to consider the first contacts as new negotiations can be desumed.

53. *Court of Cassation, 15th March 1989 n. 1287* 968

According to Art. 76 of the Law on Adoption dated 4th May 1983 n. 184, the enforcement in Italy of a foreign adoption decision, issued subsequently to the entry into force of said Law, lies within the jurisdiction of the Court of Appeal if – before 1st June 1983 – the foreign competent authority of the place of residence of adopters declared their fitness for adoption of a foreign minor.

54. *Court of Cassation, 30th March 1989 n. 1577* 382

According to Art. 3 of Law on Nationality dated 13th June 1912 n. 555, the foreigner who was born in Italy or whose parents had been resident there for at least 10 years at the moment of his birth, acquires the Italian nationality if he carries out military service in Italy.

Art. 3 of the Law of 1912 does not apply to the former colonial citizen, born in Eritrea, who carried out military service in Eastern Italian Africa.

55. *Rome Pretore, 31st March 1989* 153

From Arts. 22, paragraph 1 and 3, and 31, paragraph 1 *a*) of the Vienna Convention dated 18th April 1961 on diplomatic relations, not only is a foreign embassy immune from the execution of any decision of the civil judge, but it is also exempt from jurisdiction in case of a real action concerning the building.

56. *Court of Cassation (plenary session), 3rd April 1989 n. 1589* 387

As Law dated 11th August 1937 n. 533 regulates the distribution of the jurisdiction among national judges and the form of and the application in the labour proceedings, it does not influence the attribution criteria of international jurisdiction and can not abrogate the Brussels Convention dated 27th September 1968.

The provisions of the Brussels Convention of 1968 must be construed so that the seized judge is not induced to declare himself competent to decide upon some issues but incompetent to know other matters.

According to Art. 5 n. 1 of the Brussels Convention of 1968, the principal obligation characterizing the contract, normally the carrying out of the work, must be taken into account in order to identify the place where the obligations are fulfilled (hence, the judge having jurisdiction), if the obligations brought in action arise out of an employment contract.

According to Art. 5 n. 1 of the Brussels Convention of 1968, Italian judges are competent to hear a labour dispute when, pursuant to Art. 25

of the Preliminary Provisions to the Civil Code, Italian law governs this relationship and the locus destinatae solutionis has been conventionally fixed in Italy.

Art. 6 of the Brussels Convention of 1968 lays down additional and not alternative criteria that can be invoked only when Italian jurisdiction can not be determined on the basis of the place of performance of the obligation in question.

57. *Neaples Juvenile Court, decree 3rd April 1989* 150

Further to the Constitutional Court's judgment dated 10th December 1987 n. 477, in case of parents of different nationality, the first paragraph of Art. 20 of the Preliminary Provisions to the Civil Code provides for the application of the laws of both States.

Art. 333 of the Civil Code, as a mandatory provision of law, must be applied to the assignment of a minor, child of an Italian father and a foreign mother, who is resident in Italy with his father.

58. *Court of Cassation (plenary session), 21st April 1989 n. 1905* 396

Art. 1, second paragraph n. 2 of the Brussels Convention dated 27th September 1968 excludes from its application actions connected with bankruptcy proceedings, among which the actio pauliana in winding up proceedings is included.

According to Art. 25 of the Italian-French Convention dated 3rd June 1930 on recognition and enforcement of judgments, which is a provision on jurisdiction, the Italian judge who declared the winding up of an Italian company is competent also in connection with the actio pauliana proposed by the liquidator against a French company.

59. *Court of Cassation (plenary session), 28th April 1989 n. 2013* 400

According to Art. 4 n. 3 of the Civil Procedure Code, a foreigner can be sued before Italian judges if the proceedings is connected to another one pending before the Italian judge.

If the member of a ship crew acts against the foreign employer for the termination indemnity and for the payment due for the salvage of the ship, the connection between the two claims is excluded, having the first contractual nature and the second non-contractual nature.

60. *Milan Court of Appeal, 5th May 1989* 404

The issue of constitutional legitimacy concerning Arts. 5 and 6 of the Convention dated 31st March 1939 between Italy and San Marino (amended by the Agreement dated 28th February 1946), providing for an exequatur proceedings of foreign judgments which has partly an ex parte nature, is manifestly unfounded.

Art. 7, first paragraph of the Convention of 1939 on the conditions required for the enforcement of the foreign judgment, must be construed as referring to n. 2 rather than n. 1 of Art. 5 of the Agreement of 1946.

Art. 797 n. 1 of the Civil Procedure Code, providing for an indirect determination of the foreign judge's jurisdiction, refers to all provisions on jurisdiction.

According to Art. 797 n. 1 of the Civil Procedure Code, the foreign judge, seized with a claim about the transfer of shares, is competent pursuant to the criterion of forum societatis laid down by Art. 23 of the Civil Procedure Code.

61. *Court of Cassation (plenary session), 15th May 1989 n. 2329* 652

According to customary international law – codified in Art. 43 of the Convention on Consular Relations, signed in Vienna on 24th April 1963 and in Arts. 6 and 13 of the Consular Convention between Italy and the United Kingdom signed in Rome on 1st June 1954 – consuls are exempt from civil and administrative jurisdiction of the guest State for acts performed in the exercise of their functions.

The European Convention on States' Immunity, signed in Basel on 16th May 1972, which excludes immunity for employment relations with foreign citizens of the receiving State carried out in its territory, is an acknowledgment of the evolution of customary international law, even though it has not been ratified by Italy.

With regard to consuls' immunity, the actual possibility of the decision requested by the employee to the Italian judge to interfere with consular function must be ascertained.

Italian judge has jurisdiction in an action brought by an employee with high duties against a foreign consul in order to obtain the payment of wage differences due for a superior level.

62. *Court of Cassation, 23rd May 1989 n. 2452* 657

The Brussels Convention dated 27th September 1968 does not exclude that the party who wants to obtain the enforcement in Italy of a judgment pronounced in another Contracting State submits the request through a summons ("citazione") pursuant to Art. 796 of the Civil Procedure Code, but this circumstance does not imply that the proceedings so established is subsequently governed by ordinary rules, particularly with reference to enforcement's requirements.

According to Art. 28, third paragraph of the Brussels Convention of 1968, in course of the recognition of a foreign judgment, it is not allowed to control the jurisdiction of the court of the State in which the judgment was given.

The Brussels Convention does not provide that the foreign judgment, whose enforcement has been sought, must be res iudicata, but only that it must be enforceable in the State of origin.

63. *Prato Tribunal, 24th May 1989* 661

According to Art. 5 n. 1 of the Brussels Convention dated 27th September 1968 (and in the light of Art. 25 of the Preliminary Provisions to the Civil Code and of Arts. 33, *F*) and 19, paragraph 2 of the Hague Convention of 1st July 1964), jurisdiction of the Dutch judge must be declared in a dispute concerning a sale contract if the carriage of the goods started in the Netherlands.

64. *Court of Cassation (plenary session), 25th May 1989 n. 2502* 663

According to customary international law, the foreign State is immune from the jurisdiction of the territorial State only for actions carried out iure imperii and such immunity can be extended to foreign public entities, if they operate as organs of the origin State for the achievement of purposes of the State itself. The Royal Decree Law n. 1621 of 1925 (confirmed with Law dated 15th July 1926 n. 1263), subordinating to a ministerial authorization the possibility to proceed to the enforcement and protective measures on assets belonging to foreign States, used for private activities, and establishing reciprocity, assumes that, according to customary international

law, foreign States do not enjoy absolute immunity for their assets but restricted immunity.

In order to determine Italian jurisdiction for the granting of enforcement or protective measures, the real connection of the assets of the foreign State to the public or private activity of the State itself must be verified.

The Italian judge has jurisdiction to allow the seizure of the assets connected with private activities of the foreign State. The question if the government authorization, required by Royal Decree Law n. 1621 of 1925, has been granted must be answered prior to the decision about the seizure.

65. *Milan Court of Appeal, 26th May 1989* 669

A foreign judgment on divorce passed against an Italian citizen is not contrary to public policy only if the marriage results to be broken off for objective and determined reasons and circumstances which, even though not necessarily correspondent to those contemplated in Italian law, have substantial analogy with them.

A divorce ruling passed by the Jerusalem rabbinic Tribunal between an Italian husband and an Israeli wife, where the judge only registered the effects of a "divorce settlement" between the spouses, can not be enforced in Italy.

66. *Rome Court of Appeal, 5th June 1989* 1037

As extradition implies that the person to be extradited is subject to trials and coercive measures, the person enjoying diplomatic immunity can not be subject to extradition, pursuant to Arts. 29 and 31 of the Vienna Convention of 18th April 1961.

67. *Constitutional Court, 6th June 1989 n. 323* 87

The issue of constitutional legitimacy of Law dated 26th March 1983 n. 84 which provided for the substitution of the gold-franc Poincaré, adopted by the Warsaw Convention dated 12th October 1929 with the special drawing rights of the International Monetary Fund, in connection with Art. 10 of the Constitution, is unfounded, as this does not concern international treaty rules, but only general rules; among these, the rule "pacta sunt servanda" has instrumental nature and is not applicable in the Italian legal system.

There is no treatment difference connected with a violation of Art. 3 of the Constitution when two situations are compared, one governed by Italian law, the other one by a foreign law.

68. *Bologna Juvenile Court, decree 10th June 1989* 970

The declaration of fitness for adoption, set forth by Art. 30 of Law dated 4th May 1983 n. 184 for the enforcement in Italy of foreign decisions on adoption, must not necessarily precede the issue of the foreign decision, but the decision of the Italian judge ruled by Art. 32 of said Law.

69. *Court of Cassation (plenary session), 4th July 1989 n. 3201* 672

Italian judges are competent to hear an action against a foreign defendant in case of joinder of defendants, also when the Italian defendant and the foreign defendant are asked to be condemned alternatively.

Italian judges are competent to hear a case against a foreign defendant related to the claiming back of an amount, which is said to be unduly paid within the Italian territory, if the amount considered undue has been paid

in Italy and the act performing the obligation, that is the restitution of the amount paid in excess, must be carried out in Italy, where the plaintiff is resident.

70. *Genoa Tribunal, 18th July 1989* 674

According to Art. 23 of the Preliminary Provisions to the Civil Code, the will of a British citizen is governed by English law.

According to Art. 2697, first paragraph of the Civil Code, the burden to prove one's assumption lies on the person who asserts the invalidity of a will, according to a law other than Italian law applicable to it.

A will disposition in favour of the Italian Government, which however imposes to it tax exemption for another heir, is contrary to public policy.

According to English law, the unlawfulness and the impossibility of a suspensive condition to a will disposition concerning immovable property makes the entire disposition null and void.

71. *Court of Cassation, 27th July 1989 n. 3524* 678

The Brussels Convention dated 27th September 1968, which excludes the review as to substance, must apply even though the enforcement of a foreign judgment has been irregularly sought in the ordinary ways as per Arts. 796 and following of the Civil Procedure Code.

As per its Art. 55, the Brussels Convention of 1968 substitutes the Convention of 9th March 1936 between Italy and Germany on recognition and enforcement of judgments.

72. *Court of Cassation, 28th July 1989 n. 3537* 975

According to Art. 10 of the Navigation Code Liberian law applies to a carriage by sea on board a Liberian ship, entered into by a Swiss citizen and a German citizen, if the bill of lading has been issued in Brazil, which is not Party to the Brussels Convention dated 25th August 1924.

Art. 133 n. 2 of the Liberian Law of 1969, which provides that neither the carrier nor the ship are responsible for damage or loss due to inherent vice, quality or imperfection of goods, corresponds to a provision already codified in national laws and in international conventions.

73. *Court of Cassation (plenary session), 8th August 1989 n. 3648* 682

According to Art. 4 n. 2 of the Civil Procedure Code, a dispute between an Italian firm and a German company referring to a supply obligation is subject to Italian jurisdiction if, pursuant to lex fori (Art. 1326 of the Civil Code), the conclusion of the contracts performing the duty to effect the stipulated purchases should take place in Italy.

74. *Court of Cassation (plenary session), 8th August 1989 n. 3657* 685

Absolute lack of jurisdiction exists in connection with the claim of a third person against a competing entrepreneur in order to obtain the declaration of lack of objective requisites of patents requested or to be requested in future as, pursuant to Italian provisions on patents – which are perfectly consistent with those laid down by the Munich Convention dated 5th October 1973 on European Patents – third persons do not enjoy protection in the period from the patent application's submission and the granting of same patent but they can only subsequently contest a patent already granted.

Pursuant to Art. 16 n. 4 of the Brussels Convention dated 27th Sep-

tember 1968, the claim on the nullity of patents granted in Italy to a German entrepreneur is subject to Italian jurisdiction.

According to Arts. 2 and 53 of the Brussels Convention of 1968, a German company having elected domicile in Italy in order to apply for a patent, can not be considered domiciled in Italy: in fact, such election can not be invoked in the case of a defendant domiciled in a Contracting State, as the reference to Art. 4 of the Civil Procedure Code laid down by Art. 3 of the Convention must be extended also to Art. 75 of the Law on Patents.

Art. 16 n. 4 of the Brussels Convention does not apply to disputes connected with unlawful infringements of a patent.

Art. 5 n. 3 of the Brussels Convention does not apply to requests for negative preventive assessment in connection with possible and future events.

Pursuant to the Luxembourg Protocol dated 3rd June 1971 it is not necessary to resort to the EEC Court of Justice when the interpretation of a provision of the Brussels Convention can be easily deduced from its text.

Art. 6 n. 1 of the Brussels Convention can not be invoked in order to extend Italian jurisdiction to the request for negative assessment of the infringement of an Italian patent submitted against a German defendant even though the Italian judge has exclusive jurisdiction, pursuant to Art. 16 n. 4 of the Convention, to hear a case concerning the nullity of such patent, submitted also against the Minister of Industry, as he has been sued only to remove the other defendant from the jurisdiction of the judge of his domicile.

Art. 6 n. 3 of the Brussels Convention does not apply in the case of request for preventive negative assessment of the infringement of the patent submitted against a German defendant as in such proceedings the plaintiff acts substantially as defendant and the nullity request of the patent on which it is based would have a counterclaim character in comparison with a possible infringement request submitted against the same plaintiff, which would be excluded from Italian jurisdiction pursuant to Art. 2 of the Convention.

75. *Court of Cassation (plenary session), 5th September 1989 n. 3837* . . . 979

According to Art. 4 n. 3 of the Civil Procedure Code, an Italian judge has jurisdiction in respect of a foreign defendant whenever a case of connection provided by Arts. 31-36 of the Civil Procedure Code occurs, and thus also in case of necessary joinder of Italian defendant and foreign defendants regarding a contract between an Italian debtor and foreign nationals in fraud of the creditor.

The Italian judge has jurisdiction referring to the request of protective measures either if they must be carried out within the State, or if such request is connected with the substantial relationship as instrumental to it pursuant to Art. 4 n. 3 of the Civil Procedure Code.

76. *Trieste Tribunal, order 21st September 1989* 984

According to Art. 4 n. 3 of the Civil Procedure Code, the Italian judge has jurisdiction on the request of protective measures to be carried out in Italy, where the party adversely affected owns some property.

The deposit of goods to be submitted to protective measures at the free port of Trieste does not hinder Italian jurisdiction.

The preventive Government authorization set forth by Art. 12 of Law dated 30th August 1925 n. 1621 is not necessary in order to impose a seizure

on the assets of a Brazilian public entity as the condition of reciprocity between Italy and Brazil is not fulfilled.

77. *Court of Cassation, 6th October 1989 n. 4006* 985

With reference to a payment objectively undue, effected in favour of a foreigner, the consequent debt to repay has non-contractual nature and it is therefore regulated, according to Art. 25, second paragraph of the Preliminary Provisions to the Civil Code, by the law of the place where the event occurred out of which the obligation arised, that is the place of the payment itself.

In the autonomous warranty, in international commercial practice called performance bond, the guarantor is obliged to fulfill the performance object of the demand bond upon the simple claim of the beneficiary about the non-performance or the wrong performance of the main obligation and without any possibility to raise exceptions relative to the validity, the effectiveness and the events of the main relationship.

The guarantor's obligation is limited to the loss the beneficiary has suffered from the non-fulfillment or the wrong fulfillment of the main obligation.

78. *Court of Cassation, 17th October 1989 n. 4165* 994

The action for the enforcement of the foreign judgment is independent from the main action and it is an "azione costitutiva", in so far as it aims to create procedural effects.

The enforcement action rises after the foreign judgment acquires res iudicata effects and it is subject to the ordinary prescription term of ten years provided by Art. 2946 of the Civil Code.

Not only does the Ministry of the Interior (as intermediary institution according to the New York Convention of 20th June 1956 on the Recovery of Maintenance Abroad) have an own special procedural position, linked to the public interest in the protection of minors and the respect of international obligations, but it also acts as substitute of the real party in interest pursuant to Art. 81 of the Civil Procedure Code.

In case the real party in interest in order to ask for the enforcement of a foreign maintenance decision has been substituted by the Ministry of Interior, such enforcement action is barred by prescription starting from the moment when the foreign judgment acquires res iudicata effects; it is not relevant that the late exercise of the right by the intermediary institution derives from the delay of the request of the forwarding authority.

79. *Court of Cassation, 10th November 1989 n. 4769* 997

In order to determine the notion of Italian public policy, according to Art. 797 n. 7 of the Civil Procedure Code, for the recognition of foreign divorce judgments the principle relating to the manifest incompatibility with public policy laid down by Art. 10 of the Hague Convention dated 1st June 1970 must apply, however not directly.

A Greek divorce judgment, where the judge limited to take act of the concurrent will of the parties, can be enforced in Italy.

80. *Milan Court of Appeal, 14th November 1989* 1001

According to Art. 47 n. 1 of the Brussels Convention dated 27th September 1968, for the purposes of the exequatur, the enforceable judg-

ment must have been served pursuant to the law of the State where it has been given.

The service of the foreign judgment in the original language to the Italian domicile of one of the parties does not hinder the recognition of the judgment itself in Italy.

According to Art. 38 of the Brussels Convention of 1968, the enforcement of a judgment can be stayed either if an ordinary appeal against the judgment has been lodged in the State where it has been given or if mutual credit claims exist between the parties which advise to reach a final assessment thereof.

81. *Criminal Court of Cassation (plenary session), 16th November 1989 - 26th January 1990 n. 11* 1005

Pursuant to Art. 3 of the Criminal Code the mandatory nature of criminal law, in respect to everyone in the Italian territory and territorial sea, can be derogated by international law, both customary and conventional.

According to Art. 19 of the Convention on Territorial Sea and the Contiguous Zone, signed in Geneva on 29th April 1958, the coastal State has no criminal jurisdiction upon crimes committed on board the foreign ship during its innocent passage through territorial waters.

Italian criminal jurisdiction does not extend to a foreign ship during its passage through territorial waters at the anchoring in a national port having weapons and munitions aboard, when these are part of the defensive equipment of the ship.

82. *Constitutional Court, order 30th November 1989 n. 511* 1039

The issue of constitutional legitimacy of Art. 19 of the Presidential Decree dated 26th October 1972 n. 643, Art. 49, third paragraph of the Presidential Decree of 26th October 1972 n. 634 and Art. 60, first paragraph of the Presidential Decree of 29th September 1973 n. 600, raised with reference to the different procedure laid down by Art. 142 of the Civil Procedure Code for the service of deeds to the foreigner domiciled abroad, is manifestly unfounded.

83. *Criminal Court of Cassation, 7th December 1989 - 20th March 1990* . . 1040

Art. 1 of the Convention on Slavery signed in Geneva on 7th September 1956 (supplementary to that signed in Geneva on 25th September 1926), applicable to both metropolitan and non-metropolitan territory of Contracting States according to Art. 12, concurs in determining the notion of "condition similar to slavery" as laid down by Art. 600 of the Criminal Code.

84. *Court of Cassation, 18th January 1990 n. 232* 1014

Art. 30 of Law dated 4th May 1983 n. 184, as regards the request of the spouses who want to adopt a foreign minor, uses the words "a minor" not in a numerical but in an indeterminate sense, considering that, contrary to Italian children, the fitness for the adoption of foreign children must be proved from an abstract and theoretical point of view, as the minors have not yet been identified and the adequate research of the Juvenile Court, laid down by the above mentioned provision, must be substantially aimed to check the capacity of the petitioners of becoming adoptive parents of minors having a different nationality unless the decision

of the Juvenile Court declaring the fitness does expressly foresee that it is limited to the adoption of only one minor.

For the enforcement in Italy of a foreign adoption decision it is not necessary that the state of desertion results explicitly from the decision itself, as it can result implicitly from its content and from the documents upon which it is based, taking into account also the local law; the fact that the foreign decision mentions the minor's natural parents and grandparents does not hinder its enforcement.

85. *Milan Tribunal, 25th January 1990* 695

The Minister of the Interior is the only entity which can be a legitimate part in nationality proceedings, and therefore in statelessness proceedings, because of his function.

The request to ascertain statelessness can be granted if supported by adequate and conclusive documentation, when the concerned person arrived in Italy with a passport proving the statelessness and did neither obtain Italian nationality, nor the nationality of another State.

86. *Milan Court of Appeal, 16th March 1990* 698

The exclusive competence set forth in Art. 16 n. 4 of the Brussels Convention dated 27th September 1968 is limited to disputes on trademark's validity or on the existence of the deposit or of the registration, and does not include those concerning infringement.

87. *Genoa Court of Appeal, 7th April 1990* 1018

According to Art. 5 n. 1 of the Brussels Convention dated 27th September 1968, in case of compensation for damages deriving from breach of contract, the forum destinatae solutionis is determined with reference to the place where the initial obligation, substituted by the compensation, should have been fulfilled.

Pursuant to the Convention on the bill of lading dated 25th August 1924, in a contract of carriage the carrier's primary obligation is the delivery of the goods at the place of destination.

The place of performance of the obligation of compensation for damages deriving from the non fulfilment of the delivery at the place of destination is the port of discharge where the goods had to be delivered.

88. *Rome Pretore, order 15th May 1990* 1023

The functional autonomy of the judge of the precautionary measures is confirmed within the EEC by Art. 24 of the Brussels Convention dated 27th September 1968, according to which the judge of a State can issue provisional measures even if the courts of another State have jurisdiction as to the substance of the matter.

Waiting for the EEC Commission's final decision on the applicability of Art. 85 of the EEC Treaty to a contract concerning the transfer of company quotas, the national judge can order the fulfilment of the same contract, as a temporary and urgent measure pursuant to Art. 700 of the Civil Procedure Code.

According to Arts. 85 and 86 of the EEC Treaty, the service of a contract to the Commission does not constitute a valid justification for the breach of the contract itself.

COURT OF EUROPEAN COMMUNITIES CASES

Brussels Convention of 1968: 7.

Companies: 2.

Compensation for damages: 3.

Competition: 4, 9, 11, 15, 17.

Freedom of movement for persons: 8, 14.

Freedom to provide services: 12.

Preliminary ruling: 16.

Prohibition of discrimination: 6.

Public works and supply contracts: 1, 13, 17.

Quantitative restrictions: 5.

Right of establishment: 8, 10.

1. *Judgment 20th September 1988, case 31/87* 722

Directive 71/305 applies to public works contracts awarded by a body such as the Dutch local land consolidation committee.

The criterion of specific experience for the work to be carried out is a legitimate criterion of technical ability and knowledge for the purpose of ascertaining the suitability of contractors. Where such a criterion is laid down by a provision of national legislation to which the contract notice refers, it is not subject to the specific requirements laid down in the Directive concerning publication in the contract notice or the contract documents. The criterion of "the most acceptable tender", as laid down by a provision of national legislation, may be compatible with the Directive if it reflects the discretion which the authorities awarding contracts have in order to determine the most economically advantageous tender on the basis of objective criteria and thus does not involve an element of arbitrary choice. It follows from Art. 29 n. 1 and n. 2 of the Directive that where the authorities awarding contracts do not take the lowest price as the sole criterion for the award of a contract but have regard to various criteria with a view to awarding the contract to the most economically advantageous tender, they are required to state those criteria in the contract notice or the contract documents. The condition relating to the employment of long-term unemployed persons is compatible with the Directive if it has no direct or indirect discriminatory effect on tenderers from other Member States of the Community. An additional specific condition of this kind must be mentioned in the contract notice.

The provisions of Arts. 20, 26 and 29 of Directive 71/305 may be relied on by an individual before the national courts.

2. *Judgment 20th September 1988, case 136/87* 175

The rules on the nullity of companies contained in the First Council Directive of 9 March 1968 n. 68/151 do not apply where the acts in question were performed in the name of a private limited liability company whose existence is not confirmed by the public register because the formalities for incorporation required by national law have not been completed. However, it must be pointed out that in so far as acts performed in the name of a limited liability company not yet incorporated are regarded

by the applicable national law as having been performed in the name of a company being formed within the meaning of Art. 7 of the First Directive, it is for the national law in question to provide, in accordance with that provision, that the persons who perform them are to be jointly and severally liable.

3. *Judgment 27th September 1988, case 106-120/87* 178

The Court has exclusive jurisdiction pursuant to Art. 178 of the EEC Treaty to hear actions for compensation brought against the Community under the second paragraph of Art. 215 of the EEC Treaty. However, national courts retain jurisdiction to hear claims for compensation for damage caused to individuals by national authorities in implementing Community law.

The judgment of the Court of 19th September 1985 in joined cases 194 to 206/83 dismissing an action for damages brought by tomato concentrate producers against the Community under Art. 178 and the second paragraph of Art. 215 of the EEC Treaty, does not preclude the same undertakings from bringing an action for damages against the Hellenic Republic on other grounds, that is to say a wrongful act or conduct of the Greek authorities themselves, even where they were acting within the framework of Community law.

Damages which the national authorities may be ordered to pay to the individuals in compensation for damage they have caused to those individuals do not constitute aid within the meaning of Arts. 92 and 93 of the EEC Treaty.

Commission Regulation n. 381/86 of 20 February 1986 on additional payment of production aid for certain sizes of packings with tomato concentrates obtained from Greek tomatoes during the 1983/84 marketing year, granting Greek undertakings additional aid which had not been paid to them as a result of a technical error in Commission Regulation n. 1615/83 of 15th June 1983 fixing the coefficients to be applied to production aid for tomato concentrates for the 1983/84 marketing year, annulled by the judgment of the Court of 19th September 1985 in case 192/83, does not preclude the undertakings concerned from bringing an action against the Greek State for compensation for any damage in excess of the amounts paid retroactively under the regulation. Such an action may not be based on the same grounds as the actions dismissed by the Court in its judgment of 19th September 1985 in joined cases 194 to 206/83, cited above.

4. *Judgment 5th October 1988, case 238/87* 192

The refusal by the proprietor of a registered design in respect of body panels to grant to third parties, even in return for reasonable royalties, a licence for the supply of parts incorporating the design cannot in itself be regarded as an abuse of a dominant position within the meaning of Art. 86.

5. *Judgment 24th January 1989, case 341/87* 192

Arts. 30 and 36 of the EEC Treaty must be interpreted as not precluding the application of legislation of a Member State which allows a producer of sound recordings in that Member State to rely on the exclusive rights of reproduction and distribution of certain musical works of which he is the owner in order to prohibit the sale, in the territory of that Member State, of sound recordings of the same musical works when those recordings are imported from another Member State in which they

had been lawfully marketed, without the consent of the aforesaid owner or his licensee, and in which the producer of those recordings had enjoyed protection which has in the meantime expired.

6. *Judgment 2nd February 1989, case 186/87* 742

The prohibition of discrimination laid down in particular in Art. 7 of the EEC Treaty must be interpreted as meaning that in respect of persons whose freedom to travel to a Member State, in particular as recipients of services, is guaranteed by Community law that State may not make the award of State compensation for harm caused in that State to the victim of an assault resulting in physical injury subject to the condition that he hold a residence permit or be a national of a country which has entered into a reciprocal agreement with that Member State.

7. *Judgment 15th February 1989, case 32/88* 185

Art. 5 n. 1 of the Convention of 27th September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters must be interpreted as meaning that, as regards contracts of employment, the obligation to be taken into consideration is that which characterizes such contracts, in particular the obligation to carry out the agreed work.

Where, in the case of a contract of employment, the obligation of the employee to carry out the agreed work was performed and has to be performed outside the territory of the Contracting States, Article 5 n. 1 of the Convention is not applicable; in such a case jurisdiction is to be determined on the basis of the place of the defendant's domicile in accordance with Article 2 of the Convention.

8. *Judgment 15th March 1989, cases 389 and 390/87* 745

The national of a Member State carrying out in another Member State an activity subject to a special international law regulation, i.e. working for the European Space Agency, must be considered worker of a Member State pursuant to Art. 48, n. 1 and 2 of the EEC Treaty; therefore, he enjoys, together with his relatives, the rights and privileges laid down by these provisions and by EEC Council's Regulation dated 15th October 1968 n. 1612 concerning the freedom of movement of employees within EEC, in particular by Art. 12.

The enjoyment of rights by the employee's relatives deriving from the provisions of EEC law can not be subordinated to the granting of a permit of stay in conformity with determined requisites.

9. *Judgment 11th April 1989, case 66/86* 730

Bilateral or multilateral agreements regarding airline tariffs applicable to scheduled flights are automatically void under Art. 85 n. 2:

— in the case of tariffs applicable to flights between airports in a given Member State or between such an airport and an airport in a non-Member Country: where either the authorities of the Member State in which the registered office of one of the airlines concerned is situated or the Commission, acting under Art. 88 and Art. 89 respectively, have ruled or recorded that the agreements are incompatible with Art. 85;

— in the case of tariffs applicable to international flights between airports in the Community: where no application for exemption of the agreement from the prohibition set out in Article 85 n. 1 has been submitted to the Commission under Art. 5 of Regulation 3975/87; or where such an application has been made but received a negative response

on the part of the Commission within 90 days of the publication of the application in the Official Journal; or again where the 90-day time-limit expired without any response on the part of the Commission but the period of validity of the exemption of six years laid down in the aforesaid Art. 5 has expired or the Commission withdrew the exemption during that period.

The application of tariffs for scheduled flights on the basis of bilateral or multilateral agreements may, in certain circumstances, constitute an abuse of a dominant position on the market in question, in particular where an undertaking in a dominant position has succeeded in imposing on other carriers the application of excessively high or excessively low tariffs or the exclusive application of only one tariff on a given route.

Arts. 5 and 90 of the EEC Treaty must be interpreted as:

— prohibiting the national authorities from encouraging the conclusion of agreements on tariffs contrary to Art. 85 n. 1 or Art. 86 of the Treaty, as the case may be;

— precluding the approval by those authorities of tariffs resulting from such agreements;

— not precluding a limitation of the effects of the competition rules in so far as it is indispensable for the performance of a task of general interest which air carriers are required to carry out, provided that the nature of that task and its impact on the tariff structure are clearly established.

10. *Judgment 27th April 1989, case 321/87* 747

The practice followed by Belgian authorities responsible for frontier controls to ask non-Belgian Community nationals residing in Belgium to produce, in addition to their identity card or passport, their residence or establishment permit is not contrary to Community law because such controls are not a condition of entry in Belgium.

11. *Judgment 12th May 1989, case 320/87* 192

A contractual obligation under which the grantee of a licence for a patented invention is required to pay royalty for an indeterminate period, and thus after the expiry of the patent, does not in itself constitute a restriction of competition with the meaning of Art. 85 n. 1 of the EEC Treaty where the agreement was entered into after the patent application was submitted and immediately before the grant of the patent.

A clause contained in a licensing agreement prohibiting the manufacture and marketing of the products after the termination of the agreement comes within the prohibition laid down in Art. 85 n. 1 only if it emerges from the economic and legal context in which the agreement was concluded that it is liable to appreciably affect trade between Member States.

12. *Judgment 30th May 1989, case 355/87* 749

EEC Council Decision dated 17th September 1987 n. 87/475/CEE, authorising Italy to conclude an arrangement with Algeria on maritime transport and navigation, is not contrary to Arts. 5 and 6 of EEC Council Regulation n. 4055/86 on the principle of freedom to provide services in maritime transport, nor to the principle of non-discrimination as per Art. 7 of the EEC Treaty. On one hand, this authorisation can not be subject to Italy's accession to the 1974 United Nations Convention on a Code of Conduct for Liner Conferences; on the other hand, Decision n. 87/475 lays down clearly the obligation upon Italy to guarantee

the free provision of services and free competition. This is not impaired when the application of the bilateral Agreement is committed to shipping companies.

13. *Judgment 5th December 1989, case 3/88* 1045

As the possibility to enter into contracts for the realization of informative systems on behalf of the public administration is reserved only to direct or indirect – partially or totally – State-owned companies, Italy has failed to fulfil its obligations under Arts. 52 and 59 of the EEC Treaty and to Council's Directive dated 21st December 1976 n. 77/62.

14. *Judgment 12th December 1989, case 265/88* 189

The behaviour of a Member State imposing to the other Member States' citizens, exercising the right of freedom of movement, the obligation, with penal sanction in case of non-compliance, to make a residence declaration within three days from the entry into the territory, is not compatible with Community rules concerning freedom of movement.

15. *Judgment 11th January 1990, case 277/87* 1052

The sending of invoices with the wording "exportation forbidden" to clients who, through the repetition of the orders and the payment of such invoices, show tacit approval to the clauses contained in them and to the kind of commercial subordinated relations, is an agreement according to Art. 85 n. 1 of the EEC Treaty, irrespective of the possible nullity of of such wording according to the national applicable law and of the actual effects of such agreement on trade among Member States.

16. *Order 26th January 1990, case 268/88* 1043

The Court of Justice has not jurisdiction to hear a case concerning preliminary issues related to an interpretation of EEC law which is not objectively necessary to decide the main proceedings.

17. *Judgment 20th March 1990, case 21/88* 1045

Art. 30 of the EEC Treaty must be interpreted in the sense that it applies to a national legislation reserving to enterprises located in certain regions of the national territory a percentage of public supply contracts.

The possible qualification of a national provision of law as a State aid according to Art. 92 of the EEC Treaty can not exclude the application of the prohibition laid down by Art. 30 of the Treaty.

INTERNATIONAL CASES

International Court of Justice, judgment 20th July 1989 422

In the absence of any words in a treaty making clear the intention of the High Contracting Parties to exclude the application of the local remedies rule in cases of diplomatic protection, it is not acceptable that such important principle of customary international law should be held to have been tacitly dispensed with.

The United States claim requesting a declaratory judgment finding that the Friendship, Commerce and Navigation Treaty with Italy dated 2nd February 1948 had been violated can not exclude the application of the local remedies rule because such claim is not distinct from, and

independent of, the diplomatic protection claim for the reparation for alleged injuries suffered by two U.S. companies.

Although it can not be excluded that an estoppel could in certain circumstances arise from a silence when something ought to have been said, there are obvious difficulties in constructing an estoppel from a mere failure to mention a matter at a particular point in somewhat desultory diplomatic exchanges.

The local remedies rule does not, indeed can not, require that a claim be presented to the municipal courts in a form, an with arguments, suited to an international tribunal applying different law to different parties: for an international claim to be admissible, it is sufficient if the essence of the claim has been brought before the competent tribunals and pursued as far as permitted by local law and procedures and without success.

In order to demonstrate that there was some local remedy that had not been tried or, at least, not exhausted, it is not sufficient that Italy mentions the possibility of basing an action for damages before the Italian Courts against the Italian State on Art. 2043 of the Civil Code and on the provisions of the 1948 Friendship, Commerce and Navigation Treaty and the 1951 Supplementary Agreement, as it is impossible to deduce, from the recent jurisprudence cited, what the attitude of the Italian Courts would have been some twenty years ago.

The reference to conformity of the exercise of the rights recognized to the other State's citizens with the applicable provisions of the investment State, set forth by Art. III, second paragraph of the 1948 Treaty, does not mean that an act carried out in conformity with these municipal laws and regulations could not constitute an act in breach of the Treaty itself.

Though the requisition of a firm's plant, subsequently declared unlawful pursuant to Italian law, may constitute a violation of the American shareholders' right to control and manage a company, laid down by Art. III, second paragraph of the 1948 Treaty, this breach does not exist if it is not proved that an orderly liquidation plan of the company would have been carried out without the requisition itself and if Italian judges ascertained that the company was insolvent before the requisition, as insolvency excludes the right to control and management of the company.

There may be doubts whether Art. V, first paragraph of the 1948 Treaty, while it guarantees the protection of the "property" of the other State's nationals, it extends, in the case of a company's shareholders in the investment State, beyond the shares themselves, to the company or its assets.

Art. V, first paragraph of the 1948 Treaty can not be construed as the giving of a warranty that property of nationals of the investing State shall never be occupied or disturbed. In this case, as it is not established that the occupation of the plant by the workers deteriorated the plant or the machinery and as the production partly continued, the protection provided by the authorities could not be regarded as falling below the protection and security required by international law or as less than the national or third-State standards, even though occupation was referred to as unlawful by Italian judges.

In order to affirm that the delay in the Palermo Prefect's ruling on the administrative appeal against the Mayor's requisition order constitutes a violation of Art. V, first paragraph of the 1948 Treaty, it is necessary to establish the existence of a national standard of more rapid determination of administrative appeals.

The temporary requisition, subject to administrative appeal of a company having U.S. shareholders, can constitute a "taking" contrary to Art. V, second paragraph of the 1948 Treaty integrated by the first paragraph of the Protocol appended to it, only if it causes a significant deprivation of the shareholders' interests, as might have been the case if, while the company remained solvent, the requisition had ben extended and the hearing of the administrative appeal delayed.

In order to show that the requisition of a company having American shareholders was "discriminatory", and therefore forbidden according to Art. 1 of the 1951 Supplementary Agreement, it is necessary to demonstrate that the requisition was intended to favor IRI.

Such requisition can not be considered an "arbitrary" act, forbidden according to Art. 1 of the 1951 Supplementary Agreement, even though it has been revoked for being unlawful according to municipal law, as its arbitrary nature pursuant to international law can only consists in a wilful disregard of due process of law whereas in this case the act recites the grounds for its being made and is consistent with the municipal administrative system.

The term "interests", pursuant to Art. VII of the 1948 Treaty, includes indirect ownership of property rights held through the ownership of shares of an Italian company by American shareholders as this construction is more in accord with the general purpose of the Treaty in comparison with the literal meaning common in both languages, limited only to immovable property. Moreover, such provision guarantees the national treatment, which has been respected, and in any case the U.S. shareholders were not deprived of their right to dispose of the property of the Italian company by the requisition but by its precarious financial state.

FOREIGN COURTS CASES

House of Lords, 16th February 1989 200

In order to interpret the concept of "civil and commercial proceedings" according to the Hague Convention dated 18th March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, whose authentic texts are English and French, one must consider both the history of the English Act giving effect to the Convention and the many bilateral treaties on this subject entered into by the United Kingdom, from which the aim to attribute broad jurisdiction to English judges in assisting foreign courts is evident.

As no internationally acceptable meaning of "civil or commercial matters" appears from a comparative exam of national systems of law, the assistance according to the Hague Convention of 1970 can be provided if the proceedings during which the taking of evidence abroad is requested is a civil proceedings both in the legal system of the requesting State and in the requested State.

The Hague Convention of 1970 can be applied to the request of taking of evidence in the United Kingdom from a Norwegian judge in order to use it in a proceedings in fiscal matters, having such proceedings civil nature in both States concerned.

DOCUMENTS

Establishment of a Court of First Instance of the European Communities . . 220

Amendments to the Rules of Procedure of the Court of Justice of the European Communities 230

Additional Agreement to the Convention between Italy and Austria on Recognition and Enforcement of Judgments (Roma, 7th April 1987) 233

Exchange of Notes between Italy and Switzerland relating to the Transmission of Judicial and Extrajudicial Documents and Letters of Request in Civil and Commercial Matters (Berne, 2nd June 1988) 235

Enforcement Ruling of the Law on Registration and Census of Italian Citizens Abroad (Presidential Decree 6th September 1989 n. 323) 237

Convention on the Delivery of a Certificate of Diversity of Family Names (The Hague, 8th September 1982) 510

Convention on Administrative Assistance to Refugees (Basel, 3rd September 1985) 514

Urgent Provisions on Political Asylum, Entry and Residence in Italy of non-EEC Nationals and on Regularization of Same Nationals Present in Italy (Law 28th February 1990 n. 39) 518

Provisions on the implementation and co-ordination of the Criminal Procedure Code and provisional measures (Decree Law 28th July 1989 n. 271) . . 530

Provisions on the implementation of international conventions on the enforcement of criminal sentences (Law 3rd July 1989 n. 257) 532

Convention between Italy and Austria on Bankruptcy (Rome, 12th July 1977) . 755

Convention on the law applicable to surnames and first names (Munich, 5th September 1980) 760

Exchange of Letters between Italy and Israel on Social Security (Jerusalem, 7th January 1987) 763

Provisions on exchange control (Ministerial Decree 27th April 1990) . . . 766

Finnish Provision on the law applicable to contracts (Laws 26th June 1964 n. 387, 27th May 1988 n. 466 and n. 467) 770

Resolutions of the Institut de Droit International at the Santiago de Compostela session (5th-13th September 1989) 776

Treaty on Cooperation in the Execution of Penal Sentences between Italy and Thailand (Bangkok, 28th February 1984) 1055

Convention among EEC Member States on the Application of the Principle "ne bis in idem" (Brussels, 25th May 1987) 1059

Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation (Montreal, 24th February 1988) 1062

Provisions on the compulsory insurance for damages caused in Italy by motor

vehicles and crafts registered in foreign States (Law 7th August 1990 n. 242) 1065

Provisions amending and supplementary to Law 8th May 1985 n. 205 establishing committees on Italian emigration (Law 5th July 1990 n. 172) . . 1067

Ruling implementing Art. 1 of Decree Law 30th December 1989 n. 416 on the status of refugee (Presidential Decree 15th May 1990 n. 136) 1071

Ruling on the organization of the Department for the Co-ordination of Community Policies (President of Council of Ministers Decree, 30th April 1990 n. 150) 1072

Rules for a Pre-arbitral Referee Procedure of the International Chamber of Commerce 1076

CURRENT EVENTS AND RECENT DEVELOPMENTS

The presentation of the Essays in memoriam Mario Giuliano 535

Legislative, judicial and international practice. New ratification of the accession Convention of Greece to the Brussels Convention - A note on the compatibility of the Visby Rules with the Hamburg Rules - New provisions of the Navigation Code - New provisions on pleasure navigation - On the Court of First Instance of the European Communities - On the United Nations Convention against Torture - Withdrawal of a French declaration relating to the New York Convention dated 10th June 1958 240

Legislative, judicial and international practice. International treaties coming into force in Italy (according to the Official Journal from October 1989 to March 1990) - Entry into force of the European Convention on social security - Member States of the Hague Conventions in force - New provisions on the civil effects of Jewish marriages - Two Unidroit Conventions on factoring and leasing - On the ascertainment of reciprocity as regards provisional measures and enforcement against Sudan - General Assembly Resolution on the protection of detained persons 540

Legislative, judicial and international practice. International treaties coming into force in Italy (according to the Official Journal from April to July 1990) - Parliament authorization to Government for the enforcement of EEC Directives on companies - Ruling on new Navigation Code provisions - Note on the Convention Abolishing the Requirement of Legalization for Foreign Public Documents - On the equivalence of degrees and diplomas of persons having acquired Italian nationality by marriage and naturalization - On the participation to companies and joint-ventures abroad - New asset of ICE (National Istitute for Foreign Trade) - Establishment of the General Council of Italian Citizens abroad - Reciprocity and enforcement against foreign States - Ministerial circulars on the international family certificate - A seizure against the Central Bank of Nigeria - United Nations Convention on Mercenaries 782

Legislative, judicial and international practice. Italy's denunciation of the 1902 Convention on divorce - Member States of the 1958 New York Convention on arbitral awards - Objection raised by the Federal Republic of Ger-

many to Argentine's declaration on the 1958 New York Convention - Constitutional illegitimacy of the law of Colombia on the ratification of the 1958 New York Convention - Second Optional Protocol to the United Nations Covenant on Civil and Political Rights - Agreements on visas with Hungary and Czechoslovakia - Agreement between Italy and the United Kingdom on Mutual Assistance in Criminal Matters - Memorandum of Understanding between Italy and USSR on organized criminality - New provisions on the survey for tax purposes and the documentation of currency transfers to and from abroad - New provisions on arms control - On the existence of reciprocity and enforcement against foreign States . 1082

Parliamentary debates - On the Additional Agreement to the Convention between Italy and Austria on the enforcement of judgments 246

Notices - XXII round-table on EEC law - The third seminar on human rights - A congress on MIGA - First "Moot Court" in EEC law 246

Notices - The 1990 courses of the Hague Academy of International Law - Seminar on the legal regime of outer space - Round-table on the 1988 Lugano Convention 548

Notices - A congress in memory of Edoardo Vitta - A meeting on the 1968 Brussels Convention 802

Notices - Ceremony of remembrance of Mario Scerni in Genoa - Seminar on the future of ECC institutions - International meeting on the protection of minorities in Europe - An award on international humanitarian law . . 1094

BOOK REVIEWS
(See Italian Index)