

1. Record Nr.	UNINA9910473454403321
Autore	Volpe Valentina
Titolo	Remedies against Immunity? : Reconciling International and Domestic Law after the Italian Constitutional Court's Sentenza 238/2014 // edited by Valentina Volpe, Anne Peters, Stefano Battini
Pubbl/distr/stampa	Berlin, Heidelberg : , : Springer Berlin Heidelberg : , : Imprint : Springer, , 2021
ISBN	3-662-62304-8
Edizione	[1st ed. 2021.]
Descrizione fisica	1 online resource (427 pages)
Collana	Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, Veröffentlichungen des Max-Planck-Instituts für ausländisches öffentliches Recht und Völkerrecht, , 2197-7135 ; ; 297
Classificazione	HIS027100LAW051000POL011000
Altri autori (Persone)	PetersAnne <1964-> BattiniStefano
Disciplina	341
Soggetti	International law World War, 1939-1945 International relations Public International Law History of World War II and the Holocaust International Relations
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di contenuto	Part I – Introduction: 1 Reconciling State Immunity with Recognition of War Victims in a Legal Pluriverse by Anne Peters and Valentina Volpe -- Part II – Immunity: 2 Right of Access to (Italian) Courts über alles? Legal Implications beyond Germany's Jurisdictional Immunity by Paolo Palchetti -- 3 The Illusion of Perfect Justice by Christian Tomuschat -- 4 Sentenza 238/2014: A Good Case for Law-Reform? by Heike Krieger -- Part III – Remedies: 5 A Plea for Legal Peace by Riccardo Pavoni -- 6 A Story of 'Trials and Errors' That Might Have No Happy End by Jörg Luther -- 7 State Immunity, Individual Compensation for Victims of Human Rights Crimes, and Future Prospects by Stefan Kadelbach -- 8 Sketches for a Reparation Scheme: How Could a German-Italian Fund for the IMIs Work? by Filippo Fontanelli -- Part IV – European Perspectives: 9 Waiting for Negotiations: An Italian Way to Get Out of

the Deadlock by Alessandro Bufalini -- 10 Sentenza 238/2014: EU Law and EU Values by Bernardo Giorgio Mattarella -- 11 The Consequences of Sentenza 238/2014: What to Do Now? by Doris König -- 12 Would the World Be a Better Place If One Were to Adopt a 'European' Approach to State Immunity? Or, 'Soll am europäischen Wesen die Staatenimmunität genesen'? by Andreas Zimmermann -- Part V – Courts: 13 A Dangerous Last Line of Defence: Or, a Roman Court Goes Lutheran by Christian J. Tams -- 14 Teaching the World Court Makes a Bad Case: Revisiting the Relationship between Domestic Courts and the ICJ by Raffaella Kunz -- 15 Between Cynicism and Idealism: Is the Italian Constitutional Court Passing the Buck to the Italian Judiciary? by Giovanni Boggero and Karin Oellers-Frahm -- Part VI – Negotiations: 16 Deadlocked in Dualism: Negotiating for a Final Settlement by Andreas von Arnould -- 17 Moving beyond Judicial Conflict in the Name of the Pre-Eminence of Fundamental Human Rights by Valerio Onida -- 18 Between a Rock and a Hard Place: Italian Concerns between Constitutional Rights and International Law by Andreas L. Paulus -- 19 Overcoming the Judicial Conundrum: The Road to a Diplomatic Solution by Francesco Francioni -- Part VII – The Past and Future of Remedies: 20 Recollections of a Judge by Sabino Cassese -- 21 A Dialogical Epilogue by Joseph H.H. Weiler -- Annex: Sentenza 238/2014.

Sommario/riassunto

The open access book examines the consequences of the Italian Constitutional Court's Judgment 238/2014 which denied the German Republic's immunity from civil jurisdiction over claims to reparations for Nazi crimes committed during World War II. This landmark decision created a range of currently unresolved legal problems and controversies which continue to burden the political and diplomatic relationship between Germany and Italy. The judgment has wide repercussions for core concepts of international law and for the relationship between different legal orders. The book's three interlinked legal themes are state immunity, reparation for serious human rights violations and war crimes (including historical ones), and the interaction between international and domestic institutions, notably courts. Besides a meticulous legal analysis of these themes from the perspectives of international law, European law, and domestic law, the book contributes to the civic debate on the issue of war crimes and reparation for the victims of armed conflict. It proposes concrete legal and political solutions to the parties involved for overcoming the present paralysis with a view to a sustainable interstate conflict solution and helps judges directly involved in the pending post-Sentenza reparation cases. After an Introduction (Part I), Part II, Immunity, investigates core international law concepts such as those of pre/post-judgment immunity and international state responsibility. Part III, Remedies, examines the tension between state immunity and the right to remedy and suggests original schemes for solving the conundrum under international law. Part IV adds European Perspectives by showcasing relevant regional examples of legal cooperation and judicial dialogue. Part V, Courts, addresses questions on the role of judges in the areas of immunity and human rights at both the national and international level. Part VI, Negotiations, suggests concrete ways out of the impasse with a forward-looking aspiration. In Part VII, The Past and Future of Remedies, a sitting judge in the Court that decided Sentenza 238/2014 adds some critical reflections on the Judgment. Joseph H. H. Weiler's Dialogical Epilogue concludes the volume by placing the main findings of the book in a wider European and international law perspective. .