TIMBRE DEL ESTADO

0,03 EUROS
TRES CÉNTIMOS DE EURO

OM1589271

CLASE 8.ª

IURATA FIDES

To all to whom these presents shall come, I, the undersigned, Josep Peñarroja Fa, Official Translator in and for the Kingdom of Spain, duly appointed and sworn and qualified to act as such by the Ministry of Foreign Affairs, and legally authorized to practice,

Do hereby certify that to the best of my knowledge and belief the attached translation is a true and accurate rendering into English of a document in Italian.

In witness whereof I have hereunto set my hand and affixed my seal on officially stamped paper, thus testifying that the translation and original have the same meaning, in Barcelona on the 26th day of February 2016.

JOSEP PEÑARROJA FA TRADUCTOR OFICIAL

TRADUCTOR JURADO - JURAT
Josep Peñarroja Fa
OFFICIAL TRANSLATOR

TIMBRE DEL ESTADO

OM3283814

Official Translation

CLASE 8.ª

GENERAL ROLL IN VOLUNTARY JURISDICTION No. 753/2012

MODICA ORDINARY COURT

JUDGEMENT OF FIRST DEGREE, REGISTERED WITH NUMBER 5/2012 OF THE GENERAL REGISTER OF THE EUROPEAN COURT OF ARBITRAL JUSTICE OF RAGUSA, DELIVERED AT VIA FOSSO TANTILLO No. 16, MODICA, RAGUSA, ON 30 OCTOBER 2012, BY THE INTERNATIONAL CIVIL COURT – PERMANENT ORGAN OF THE EUROPEAN COURT OF ARBITRAL JUSTICE OF RAGUSA, WITH THE EFFECTS OF A JUDGEMENT GIVEN BY THE JUDICIAL AUTHORITY OF THE REPUBLIC, IN ACCORDANCE WITH ARTICLE 824 BIS OF THE CIVIL PROCEDURE ACT, IN THE DISPUTE BETWEEN THE PUBLIC PROSECUTOR OF THE EUROPEAN COURT OF ARBITRAL JUSTICE OF RAGUSA, ORGAN OF THE UPPER INSTITUTE OF NOBILITY LAW, WITH ADDRESS AT VIA ROMA No. 108, RAGUSA, REPRESENTED BY THE DEPUTY PUBLIC PROSECUTOR, DOCTOR ALESSANDRO RAPPA, OF ITALIAN NATIONALITY, BORN IN PALERMO ON 28 APRIL 1976, RESIDENT AT VIA MONTE BONIFATO No. 146, ALCAMO, AND H.S.H. PRINCE DON RAFAEL ANDÚJAR VILCHES, BORN IN MELILLA, SPAIN, ON 20 DECEMBER 1946, WITH ADDRESS AT CALLE GOLF DE BOTNIA, 8 - 08198 SANT CUGAT DEL VALLES, BARCELONA, SPAIN, IN HIS POSITION AS GRAND MASTER OF THE SOVEREIGN CONSTANTINIAN ORDER OF CAPPADOCIA, WITH SEAT AT CALLE OBAC, 1, 5-3, AD700 ESCALDES-ENGORDANY, PRINCIPALITY OF ANDORRA.

TIMBRE DEL ESTADO

0,03 EUROS TRES CÉNTIMOS DE EURO

OM3283813

Official Translation

CLASE 8.ª

JOSEP PEÑARROJA FA TRADUCTOR OFICIAL

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA

EUROPEAN COURT OF ARBITRAL JUSTICE OF RAGUSA

SEAT IN MODICA

Via Fosso Tantillo no. 16 – 97015 Modica, Ragusa

General Register no. 05/2012

JUDGEMENT

WITH THE EFFECTS OF A JUDGEMENT GIVEN BY THE JUDICIAL AUTHORITY OF THE ITALIAN REPUBLIC

GIVEN

on 30 October 2012 by the International Civil Court – Permanent Organ of the European Court of Arbitral Justice of Ragusa, in the dispute between the Public Prosecutor of the European Court of Arbitral Justice of Ragusa, organ of the Upper Institute of Nobility Law, with seat at Via Roma no. 108, Ragusa, represented by the Deputy Public Prosecutor, Doctor Alessandro Rappa, of Italian nationality, born in Palermo on 28 April 1976, resident with address at Via Monte Bonifato no. 146, Alcamo, represented and defended by the Lawyer Sebastiano Verga, of the Rome Bar, with professional office at Via Palestro no. 78, Rome, and H.S.H. Prince Don Rafael Andújar Vilches, born in Melilla, Spain, on 20 December 1946, with address at Calle Golf de Botnia, 8 - 08198 Sant Cugat del Valles, Barcelona, Spain, in his position as Grand Master of the Sovereign Constantinian Order of Cappadocia, with seat at Calle Obac, 1, 5-3, AD700 Escaldes-Engordany, Principality of Andorra, represented and defended by the Lawyer Rosario Salvatore Migliaccio, of the Campano Ecclesiastical College of Lawyers, with professional office at Via C. Colombo no. 60, Bologna.

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

TIMBRE DEL ESTADO

CLASE 8.ª

0,03 EUROS
TRES CÉNTIMOS DE EURO

0M3283812

JOSEP PEDARROJA FA TRADUCTOR OFICIAL

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA

THE INTERNATIONAL CIVIL COURT

PERMANENT ORGAN

OF THE

EUROPEAN COURT OF ARBITRAL JUSTICE

OF RAGUSA

in session in the seat of international arbitral proceedings, at Via Fosso Tantillo no. 16, Modica, Ragusa, composed of the following arbitral judges – judges of first degree:

- Lawyer Michele Dell'Agli, born in Ragusa on 22 February 1969, resident there, at Viale delle Americhe no. 91, presiding;

- Lawyer Gianluca Gulino, born in Jesolo, Veneto, on 25 November 1969, resident of Ragusa, at Via Trento no. 68, in the capacity of judge;

- Lawyer Giovanni Mangione, born in Comiso, Ragusa, on 18 July 1972, resident of Vittoria, Ragusa, at Via Garibaldi no. 71, in the capacity of judge and rapporteur;

- With the intervention of the Public Prosecutor of the European Court of Arbitral Justice of Ragusa, Lawyer Lauria Baldassare, of the Trapani Bar, with professional office at Via Rossotti no. 17, Alcamo, Trapani;

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

HAS GIVEN

in accordance with articles 806 et seq. of the Civil Procedure Act, in the version amended by Legislative Decree no. 40, of 2 February 2006, the following

JUDGEMENT

WITH THE EFFECTS OF A JUDGEMENT GIVEN BY THE JUDICIAL AUTHORITY OF THE ITALIAN REPUBLIC

TIMBRE DEL ESTADO

CLASE 8.ª

0,03 EUROS TRES CÉNTIMOS DE EURO

OM3283811

JOSÉ PEÑARROYA FA TRADUCTOR OFICIAL

in the dispute arising from the international arbitration convention, formalised on 1 September 2012, at Via C. Colombo no. 60, Bologna, registered in the Alcamo Delegation of the Taxation Agency – Trapani Office, on 6 September 2012, at number 4741, series 3;

BETWEEN

the Public Prosecutor General of the European Court of Arbitral Justice of Ragusa, organ of the Upper Institute of Nobility Law, with seat at Via Roma no. 108, Ragusa, Tax Id. No: 92025360881, represented by the Deputy Public Prosecutor of that Arbitral Court, Doctor Alessandro Rappa, of Italian nationality, born in Palermo on 28 April 1976, resident at Via Monte Bonifato no. 146, Alcamo, Tax Id. No: RPP LSN 76D28 G273I, represented and defended by the Lawyer Sebastiano Verga, of the Rome Bar, whose professional office, at Via Palestro no. 78, Tax Id. No: VRG SST 74H30 C351R, is indicated as his address, in accordance with the terms of the mandate on record in the margin of the introductory writ of 11 September 2012, to which reference is made later;

AND

H.S.H. Prince Don Rafael Andújar Vilches, born in Melilla, Spain, on 20 December 1946, with address at Calle Golf de Botnia, 8 - 08198 Sant Cugat del Valles, Barcelona, Spain, in his position as Grand Master of the Sovereign Constantinian Order of Cappadocia, with seat at Calle Obac, 1, 5-3, AD700 Escaldes-Engordany, Principality of Andorra, with address, for the purposes of this trial, at the professional office of the Lawyer Rosario Salvatore Migliaccio, of the Campano Ecclesiastical College of Lawyers, at Via C. Colombo no. 60, Bologna, Tax Id. No: MGL RRS 65D17 F839I, whose representation and defence she holds in virtue of the mandate on record in the margin of the introductory writ, dated 13 September 2012, to which reference is made later;

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

THE PURPOSE OF WHICH IS

a) Determination, in relation with the Sovereign Constantinian Order of Cappadocia, with seat at Calle Obac, 1, 5-3, AD700 Escaldes-Engordany, Principality

of Andorra, of the possession of the following requirements: 1) The condition of being a subject of International law, in all ways identical to a foreign State; 2) The capacity to assume rights and obligations arising from the international legal ordinance ; 3) Neutrality of a perpetual nature; 4) A seat in a neutral State; 5) A constitutional ordinance which ensures peace and justice among Nations; 6) The right of legation, active and passive, in accordance with the general rules of International Law; 7) The right to taxation immunity; 8) The right to immunity of jurisdiction;

b) Determination, in relation to H.S.H. Prince Don Rafael Andújar Vilches, born in Melilla, Spain, on 20 December 1946, resident at Calle Golf de Botnia, 8 - 08198 Sant Cugat del Vallès, Barcelona, Spain, of the material condition of being subject to International Law;

c) Determination, in relation to the Order of Merit of the Sovereign Constantinian Order of Cappadocia, of the condition of order of merit pertaining to a subject of International Law, in all ways identical to a foreign State.

WHEREAS

- The undersigned, Lawyer Michele Dell'Agli, Lawyer Gianluca Gulino and Lawyer Giovanni Mangione, have been appointed as judges of the arbitral proceedings, as can be understood from the appointment set out in section **b)** of the aforesaid convention; and have accepted that appointment, signing for the purpose the corresponding declaration, dated 8 September 2012, in accordance with section **i)** of the aforesaid convention;

- The seat of the arbitral proceedings, fixed, in virtue of the compromissory agreement of 1 September 2012, at Via Roma no. 200, Ragusa, was transferred on 7 September 2012 by reason of ordinary maintenance works, and in accordance with the agreement between the Public Prosecutor General of the European Court of Arbitral Justice of Ragusa, represented by the Deputy Public Prosecutor, Doctor Alessandro Rappa, as set out above, and Doctor Rosario Salvatore Migliaccio, in her position as delegate of H.S.H. Prince Don Rafael Andújar Vilches, of the professional office of the Lawyer Carlo Ottaviano, at Via Fosso Tantillo no. 16, Modica, Ragusa. This document of

alteration of the arbitral seat is recorded as deposited in a document annexed to this judgement;

- By agreement, as indicated above, formalised on 7 September 2012, the parties decided to add to the claim formulated in the convention of 1 September 2012, the following later claim: "Have the rights of the heirs of Marziano Lavarello, who was born in Rome on 17 March 1921 and died in that city on 17 October 1992, over the Imperial Constantinian Order of Cappadocia, over the titles of Prince of Cappadocia, of Byzantine Prince of the Holy Roman Empire of the East, over the imperial coat of arms of that Order and over the arms of the Prince of Cappadocia, been extinguished by the prescription envisaged in article 2934 of the Civil Code?"

- With the authorization of the delegate in the introductory phase of this trial, Lawyer Giovanni Mangione, and the Deputy Public Prosecutor, Doctor Alessandro Rappa, the death certificate of Marziano Lavarello, issued in Rome capital on 9 October 2012, was added to the documentation supplied by the Andújar party;

- In section **h)** of the commitment formalised on 1 September, the Parties agreed that this judgement must be given before 30 October 2012;

- The lawyers Michele Dell'Agli and Gianluca Gulino, on 8 September 2012, empowered the Lawyer Giovanni Mangione to carry out the actions of investigation, in accordance with article 816 ter.1 of the Civil Procedure Act, a power which is on record as deposited in a document annexed to this judgement.

DEVELOPMENT OF THE TRIAL

In order to settle and resolve the dispute referred to in the heading, the terms of which will be set out in greater detail later, in the section of "FOUNDATIONS OF FACT", Doctor Alessandro Rappa, in his condition above noted and H.S.H. Prince Don Rafael Andújar y Vilches, whose personal data have already been set out, formalised the arbitral convention of 1 September 2012, registered in the Taxation Agency Office of Alcamo on 6 September 2012, with number 4741, series 3, which is on record

deposited in a document annexed to this judgement and defining it, in accordance with article 825.1 of the Civil Procedure Act.

Lawyer Giovanni Mangione, empowered for the actions of investigation, as is set out above, invited the parties, in the sense provided in section **f)** of the arbitral convention, and for the purposes envisaged in it, to present documents, writs and responses before 30 September 2012; and, attending to this invitation, each of them sent to the Public Prosecutor General of the European Court of Arbitral Justice of Ragusa, by email (corteuropeadigiustiziarbitrale@yahoo.it), their corresponding **writ of defence**, more specifically, Doctor Alessandro Rappa, on 11 September 2012 and H.S.H. Prince Don Rafael Andújar Vilches, on 13 September 2012. The parties, then called to appear at the seat of the arbitral proceedings, Via Fosso Tantillo no. 16, Modica, Ragusa, on 17 September 2012, communicated by telephone their intention of waiving the appearance before the lawyer Giovanni Mangione, empowered for the actions of investigation, both ratifying their own conclusions.

The parties, finally, sent to this Court, by hand of the Public Prosecutor General and by email (corteuropeadigiustiziarbitrale@yahoo.it), their respective **writs of response**, that from Doctor Alessandro Rappa being received on 21 September 2012, and that from H.S.H. Prince Don Rafael Andújar Vilches, on 25 September 2012. It is set on record that the Deputy Public Prosecutor, Hon. Claudio Stracquadaini, sent the aforesaid emails on, by email, to the presiding judge of the International Civil Court, lawyer Michele Dell'Agli, on the same day as they were received.

Lawyer Giovanni Mangione, with the power for actions of investigation granted to him by the other two judges, the conclusions of the Parties having been formulated in accordance with their respective writs of response, resolved to conclude the investigation phase, as he thus declared.

And then the International Civil Court – Permanent Organ of the European Court of Arbitral Justice of Ragusa, having examined all the documents, gave this judgement.

TIMBRE DEL ESTADO

0,03 EUROS TRES CÉNTIMOS DE EURO

OM3283807

CLASE 8.ª

JOSEP DESARROLLA FA TRADUCTOR OFICIAL

FOUNDATIONS OF FACT

H.S.H. Prince Don Rafael Andújar Vilches, in his position as Grand Master of Sovereign Constantinian Order of Cappadocia, has requested, in the sense of article 32 of the Regulation of the European Court of Arbitral Justice of Ragusa, and for the purposes of it, that it is proper to declare, in adversarial proceedings with the Public Prosecutor General of that Arbitral Court, and by the International Civil Court - Permanent Organ of the European Court of Arbitral Justice of Ragusa, a) the condition of being a subject of International Law, in all things identical to a foreign State, of the Sovereign Constantinian Order of Cappadocia, with principal seat at Calle Obac, 1, 5-3, AD700 Escaldes-Engordany, Principality de Andorra;

b) The position of the Grand Master of that Sovereign Order as a material subject of International Law.

The Public Prosecutor General of the European Court of Arbitral Justice of Ragusa, represented by the Deputy Public Prosecutor, Doctor Alessandro Rappa, understands that the Sovereign Constantinian Order of Cappadocia is not a subject of International Law, identical in all ways to a foreign State, but a cultural association of private law.

These are the terms of the dispute.

For all the above, the parties have requested the aforesaid Court, in accordance with the provision in section **a)** of the aforesaid arbitral convention, and in article 7 of the writ dated 7 September 2012, to answer the following questions:

1. Is the Sovereign Constantinian Order of Cappadocia a subject of International Law identical in all ways to a foreign State?

2. Is the Sovereign Constantinian Order of Cappadocia a neutral subject of International Law in a perpetual manner?

3. Is the seat of the Sovereign Constantinian Order of Cappadocia in the territory of a neutral State?

4. Can the Grand Master of the Sovereign Constantinian Order of Cappadocia legitimately promulgate the Constitution of a Sovereign Order?

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

TIMBRE DEL ESTADO

0,03 EUROS

TRES CÉNTIMOS DE EURO

CLASE 8.ª

0M3283806

JOSEP PEÑARROYA FA TRADUCTOR OFICIAL

5. Is the Sovereign Constantinian Order of Cappadocia endowed with an ordinance able to ensure peace and justice among Nations?

6. Is the Order of Merit of the Sovereign Constantinian Order of Cappadocia, also called the Constantinian Order of Merit of Cappadocia, an order of merit belonging to a subject of International Law identical in all ways to a foreign State?

7. Has the Sovereign Constantinian Order of Cappadocia the right of active and passive legation, in accordance with the general rules of International Law?

8. Has the Sovereign Constantinian Order of Cappadocia the right to taxation immunity?

9. Do the resolutions given by the courts of the Sovereign Constantinian Order of Cappadocia have the nature of legal resolutions of a foreign State?

10. Does the Grand Master of the Sovereign Constantinian Order of Cappadocia have the legal status of a material subject of International Law when he acts, by reason of internal rules, in the name, for the account and in the interest of the subject of International Law of which he is the agent?

11. Have the rights of the heirs of Marziano Lavarello, who was born in Rome on 17 March 1921 and died in that city on 17 October 1992, over the Imperial Constantinian Order of Cappadocia, over the titles of Prince of Cappadocia, Byzantine Prince of the Holy Roman Empire of the East, over the imperial coat of arms of that Order and over the arms of the Prince of Cappadocia, been extinguished by the prescription envisaged in article 2934 of the Civil Code?

H.S.H. Prince Don Rafael Andújar Vilches, in the position in which he acts, and in support of his own pleadings, has supplied:

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

a) Magisterial legislative decree number 1, of the conversion of the Imperial Constantinian Order of Cappadocia into the Sovereign Constantinian Order of Cappadocia, promulgated in Lugano, Switzerland, on 22 August 2012, with signature legalized on the same date by Monica Mayer, Notary of

Lugano, bearing apostille no. 15856 placed by the Chancellery of State of the Canton of Ticino on 22 August 2012;

b) Magisterial legislative decree number 2, approving the Constitution of the Sovereign Constantinian Order of Cappadocia, promulgated in Lugano, Switzerland on 22 August 2012, with signature legalized on the same date by Monica Mayer Sua, Notary of Lugano, bearing apostille no. 15855 placed by the Chancellery of State of the Canton of Ticino on 22 August 2012;

c) Magisterial legislative decree number 3, approving the Statute of the Order of Merit of the Sovereign Constantinian Order of Cappadocia, promulgated in Lugano, Switzerland, on 22 August 2012, with signature legalized on the same date by Monica Mayer Sua, Notary of Lugano, bearing apostille no. 15854 placed by the Chancellery of State of the Canton of Ticino on 22 August 2012;

d) The following doctrinal references: **1.** Romano, *L'ordinamento giuridico,* Pisa 1917; **2.** Riccardo Monaco, *Manuale di Diritto Internazionale Pubblico*, 1971; **3.** Giannini, *Autonomia, in studi di diritto costituzionale in memoria di Luigi Rossi*, Milan 1952; **4.** Giuliano, *La comunità internazionale ed il diritto*; **5.** Rapisardi Mirabelli, *Il principio dell'uguaglianza giuridica degli Stati*, Catania, 1920; **6.** Ziccardi, *La Costituzione dell'Ordinamento Internazionale*; **7.** Salvioli, *Règles générales du droit international de la paix*, in Rec. Cours of The Hague, 1933, IV; **8.** Kelsen, *Das Problem der Souveranitat und die Theorie des Volkerrechts*, Tubinga, 1920; **9.** Romano, *L'Ordinamento giuridico*, Pisa, 1918; **10.** Perassi, *Teoria dogmatica delle fonti di norme giuridiche in diritto internazionale*, in Riv. Dir. Intern, 1917; **11.** Ago, *Scienza giuridica e diritto internazionale*; **12.** *Parere pro-veritate*, by Umberto Fragola, professor of Administrative Law of the University of Naples, Istituto della Stampa, Naples 1956; **13.** Vitta, *La validité des traités internationaux*; **14.** *Thèorié générale du droit international*, in Rec. Cours of The Hague, 1932, IV;

e) Documents: **1.** United Nations Declaration of 1 January 1942 and articles 1.2, and 55 of the United Nations Charter; **2.** Results of consultations, published in the website

http://it.wikipedia.org/wiki/Sovrano_Militare_ Ordine_ di_Malta; **3.** List of citizens registered, up to 13 September 2012, in the register of databases of the Sovereign Constantinian Order of Cappadocia;

f) Judgement no. 193 of the Italian Constitutional Court, given on 28 June 1985;

g) Italian case-law: **1.** Judgement of the Italian Supreme Court of Cassation, Section III, of 23 April 1959, in La Giustizia Penale, p. II, pp. 203 et seq.; **2.** Judgement of the Court of Annulment no. 468/1975; **3.** Judgement of the Supreme Court of Cassation no. 2056, of 25 July 1964; **4.** Judgement of the Supreme Court of Cassation no. 1653, of 6 June 1974; **5.** Judgement of the Supreme Court of Cassation no. 960, of 18 February 1989; **6.** Judgement of the Supreme Court of Cassation no. 3374, of 19 July 1989; **7.** Judgement of the Supreme Court of Cassation no. 3360, of 18 March 1992; **8.** Judgement of the Supreme Court of Cassation no. 17082, of 12 November 2003; **9.** Judgement of the Supreme Court of Cassation no. 2415, of 26 February 1993; **10.** Judgement of the Supreme Court of Cassation, United Sections, no. 1073, of 3 February 1988; **11.** Judgement of the Supreme Court of Cassation, United Sections, no. 1502, of 20 February 1985; **12.** Judgement of the Supreme Court of Cassation, United Sections, no. 2051, of 3 May 1978; **13.** Judgement of the Supreme Court of Cassation, United Sections, no. 1653, of 6 June 1974; **14.** Judgement of the Supreme Court of Cassation no. 1624, of 23 June 1959; **15.** Judgement of the Supreme Court of Cassation no. 193, of 28 June 1985;

h) Opinion of the Council of State (Italian) no. 1869/81;

i) Official Gazette of the Sicilian Region no. 29, of 20 July 2012, parts two and three, page 16, text no. 59;

l) Death certificate, issued in Rome Capital, on 9 October 2012, of Lavarello Marziano, who was born in Rome on 17 March 1921 and died in the same city on 17 October 1992;

m) Original of the minute authorised by Vincenzo Giacalone, notary of Alcamo, on 6 July 2012, accrediting possession in the person of H.S.H. Prince Rafael Andújar Vilches, born in Melilla, Spain, on 20 December 1946, of the titles, posts and heraldic arms of the Imperial Constantinian Order of Cappadocia, of the dynasty of Marciano II

TIMBRE DEL ESTADO

CLASE 8.ª

0,03 EUROS TRES CÉNTIMOS DE EURO

OM3283803

JOSEP PEÑARROJA FA TRADUCTOR OFICIAL

Lavarello Lascari Palaiologos Basileo of Constantinople - Serbia, with principal seat at Calle Golf de Botnia, 8 - 08198 Sant Cugat del Vallès, Barcelona, Spain.

FUNDAMENTAL POINTS OF LAW

A) The fundamental point of the judge's obligation to decide is set out in article 2907 of the Civil Code, for which judicial protection is only effected at the instance of a party and, when the law so demands, also at the instance of the Public Prosecutor, or ex officio. The judge, on resolving, must attend strictly to what the parties have asked for, taking into consideration the claim in its entirety, not neglecting any part of it. In normal arbitration, the resolution that the judges adopt in the arbitration has the nature proper to acts in private independence and, consequently, the commitment is made as substitution for ordinary jurisdiction. The principle of independence of arbitral justice is directly recognized by the law and takes the form of exercising a power alternative to that of the institutional judge. The judges in normal arbitration, that is to say, arbitration which is governed by the Civil Procedure Act, cannot be classified as jurisdictional organs of the State, although they exercise the jurisdictional function at the same level as the ordinary judges. The judgement given by the judges of arbitral proceedings has, from the date of the last of their signatures on it, the effects proper to a judgement given by the Judicial Authority, independently of its acceptance by the ordinary judge. The decision of the arbitration judges, in normal arbitration proceedings, can legitimately be called a "judgement", in accordance with the terms of the New York Convention of 10 June 1958 in matters of the recognition and enforcement of foreign arbitral judgements, which are enforceable in Italy in virtue of Law 62, of 19 January 1968, and this is because maintaining the term award does not seem satisfactory. In fact, the report prepared by the ad hoc working group, drafted by Professor Giuseppe Mirabelli, First President Emeritus of the Supreme Court of Cassation, in preparation for the law of 1989, defined this question as merely formal. The expression of the arbitral judgement seems to be adjusted to the expressed wish of the legislator, in the reform of 2006, in the sense of wishing to attribute to the resolutions of judges in arbitral proceedings the effects of a judgement given by the

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

Judicial Authority of the Italian Republic. The arbitral courts are organs of the ordinary civil jurisdiction which enjoy, in the specific matters of rights available, the same powers as the ordinary judge. The arbitral judgement given by judges in arbitral proceedings is an authentic judgement, given in the exercise of an ordinary declaratory jurisdictional function. In normal arbitration, the judges of the arbitral proceedings, taking into account that they give legitimate judgements with the same effects as the judgements given by the ordinary Judicial Authority, enjoy the faculty, in accordance with article 2908 of the Civil Code, of giving resolutions directed to constituting, altering or extinguishing legal relationships between the parties, their heirs or successors and, consequently, of giving judgements which are also fundamental (Cf. Civil Cassation no. 3045, of 15 March 1995). The arbitral judgement can formulate declarations for all purposes between the parties, their heirs and successors and can, in consequence, determine all the effects of the formal and substantive trial proper to a judgement given by the ordinary Judicial Authority, from the date of the last of the signatures of the judges in the arbitral proceedings. In accordance with the provisions in article 806.1 of the Civil Procedure Act, rights which are not disposable cannot be subjected to normal arbitration, in other words, those questions cannot be submitted to arbitration in which the intervention of the Public Prosecutor is envisaged. In the same way, article 6.2 of the Act 205/2000 establishes that "disputes relative to subjective rights for which the administrative judge is competent, can be resolved by arbitration in law". Thus, today the competence of arbitrators is admitted in those disputes where the subject is subjective rights which, in general, are in the competence of the jurisdiction of the ordinary judge, the full competence of arbitrators being admitted in those disputes the subject of which is subjective rights which are in the exclusive competence of the administrative judge. Consequently, the reform of the arbitral law, approved in virtue of Legislative Decree no. 40, of 2 February 2006, which came into force on 2 March 2006, introduced administered arbitration into our ordinance. It is said that arbitration is administered when it is managed and regulated by a permanent arbitration organisation (arbitral chamber). **Article 832 of the Civil Procedure Act envisages expressly that the arbitral convention can refer to a pre-constituted**

arbitral regulation. With reference to the content of the regulation approved by permanent arbitration organizations, article 832 of the Civil Procedure Act does not go into an analysis of it. This means that the ordinary law has recognized in the arbitral courts the faculty, with respect to a determined dispute, of applying a regulation previously approved in an independent manner by an arbitral institution (arbitral chamber), without attributing to the State judge the right to control the basic grounds of the dispute in itself. In fact, the ordinary judge, in accordance with the provision in article 825 of the Civil Procedure Act, only has to verify the formal correctness of the arbitral judgement, in other words, he must check that the arbitral court has observed the proceedings envisaged in the Act. In the same way the obligation is repeated, envisaged in article 825 of the Civil Procedure Act, of proceeding to the transcription or annotation of the arbitral judgement, which acquires executive force in all those cases in which the same would apply for an ordinary judgement with an identical content. The equivalence of the arbitral judgement with the ordinary judgement, which from a formal point of view is complete, excludes, however, the executive effectiveness referred to in Book III of the standard rule, by reason of the reserve established by the rule in relation with what is envisaged in article 825 of the Civil Procedure Act. This rule establishes that the obtaining of the executive character for the arbitral judgement, in the territory of the Republic, is subject to the grant of the corresponding decree by the judge of the Ordinary Court. In verification of the formal correctness of the arbitral judgement, the Ordinary Court cannot allege the existence of faults which would legitimise a possibility of challenge of the arbitral judgement (Punzi), nor can it establish whether it is a normal or abnormal arbitral judgement. The claim against the decree of enforceability of the Court originates not only in the event that it might be denied, but also in the event that the enforceability of the arbitral judgement would be conceded. Also, the appeal judge will be the judge of the Court of Appeal.

B) 1. International Public Law, which falls within the field of general public law, also called the "law of nations" (ius gentium), constitutes the legal ordinance of international society and regulates relationships between States and other subjects of

International Law. The international ordinance does not have a central authority. It exists to the degree that other different legal ordinances, both state and non-state also exist. International Law does not take into consideration the national law of the States. However, it is not advisable to undervalue the fact that those are comprised in international society and that the international ordinance refers to the principle of plurality of State legal ordinances[1]. The international legal ordinance can be considered, in consequence, as an atypical system, from the point at which there is no legislative assembly empowered for the preparation of legal rules, nor is there a legal organ with an obligatory nature. Therefore, the international jurisdictional function is essentially of an arbitral nature. The relationships between the subjects of International Law give life to a series of rules, principles, legal regimes which are not proper to one or another subject of International Law, but of a different and independent ordinance[2]. This is, in any case, a technical and not substantial independence. The figure of independence, Romano sustains, is described even for ordinance s in the formation of which no other subject of International Law is involved. And that in the sense that "independence" is explained also in an involuntary and anonymous way, that is to say, through custom[3]. The international ordinance is constituted by standards prepared by a community of sovereign bodies. This ordinance constitutes a social body distinct from that of each of its individual members. Therefore, the international ordinance is an original ordinance since its own existence is not repeated from other legal ordinance s[4]. The ordinances of the different subjects of International Law are not bound to the international ordinance by a hierarchical relationship. Also in the field of Private Law, when intending to create a common organization there is recourse to the links of associations which generate a shared organisation without necessarily creating a body superior to the first. This happens, for example, when various societies constitute a consortium or shared cartel. In this case a new body emerges with a personality distinct

1 Cf. Romano, *L'ordinamento giuridico*, Pisa 1917.
2 Cf. Riccardo Monaco, *Manuale di Diritto Internazionale Pubblico*, 1971, page 12.
3 Cf. Giannini, *Autonomia in studi di diritto costituzionale in memoria de Luigi Rossi*, Milán 1952, pp. 207 et seq.; Giuliano, *La comunità internazionale ed il diritto*, page 232.
4 Cf. Monaco, op. cit., page 13.

from and independent of the founder members. In the field of International Public Law, two or more States can form a union for certain shared aims. In this case, from the agreement formalised by the States a new body emerges which is situated at the margin of the founder States. That is to say, the new body assumes its own legal personality, with its own ordinance, which is not superior, but only common to the bodies comprised in it. In other words, the international ordinance constitutes a parity structure, not a hierarchical structure. Belonging to the international society does not determine relationships of hierarchy among the constituent bodies; in the same way, neither are they created between the various State ordinance s and the international ordinance[5]. The international legal ordinance can be defined as independent, original and organised on a basis of parity. Thus, equality of the subjects of International Law is understood to mean that all the subjects of International Law have, in the international ordinance, the same legal capacity[6]. Therefore, it can be said that insofar as the State society is a hierarchical and authoritarian organization, the international ordinance is organised, in its turn, on the basis of principles of independence and parity of the subjects of it[7]. Vedross points out, in Volkerrecht, page 81, that in the International Community, lacking a sovereign authority, it is indispensable to confirm the elements of continuity of law. The international ordinance constitutes a dynamic ordinance to the degree that it is linked to the political, economic and social movements taking place in the International Community. The various clauses which are normally included in agreements provide for the renewal and adaptation of treaties, when their period of validity comes to an end, the faculties of waiver or withdrawal of the constituent parties, or recourse to the *rebus sic stantibus* clause. That, however, outside the procedures of adaptation of conventional law, general International Law, has its origin in custom and not in agreement[8]. **The international legal ordinance is a living reality, which cannot remain immobile**. The birth of the International

5 Cf. Rapisardi Mirabelli, *Il principle dell'uguaglianza giuridica degli Stati*, Catania, 1920.
6 Cf. Ziccardi, *La Costituzione dell'Ordinamento Internazionale*, page 253.
7 Cf. Monaco, op. cit., page 16.
8 Cf. Monaco, op. cit., page 16.

Community is usually dated to the Peace of Westphalia of 1648, at the end of the Thirty Years' War. After that date, the States reaffirmed their sovereignty and independence, putting an end to the dominion of empire and papacy. The State, as a political entity of equal degree with other States, ***superiorem non recognoscentes***, gave early warning of the need to create a series of shared standards, in an attempt at self-regulation and to guarantee peace in the heart of the international system. In the past, International Law could be defined as the "law of States", since these were the only subjects comprising the International Community which was characterised, therefore, as an international legal ordinance. With the passing of time, other subjects have acquired international personality, becoming the holders of rights and obligations arising from the rules of International law: among these are the Holy See, the United Nations Organization, International Organizations, Non-Governmental Organizations and the lay sovereign orders, such as the Order of Malta. These new subjects have sought to exercise, since their appearance on the international scene, fully and on a basis of absolute parity, the rights proper to the earlier members of the International Community. At the present time, international society has been democratized, in the sense that all nations have become the masters of their own destiny, which means that they enjoy the right of self-determination[9]. A first response to the foundation of International Law has been pronounced by philosophers of the *ius naturalista* current, according to whom, natural law is the principle of all, and philosophers of the neo-Kantian current, for whom International Law constitutes a purely rational system[10]. According to other scholars, the binding nature of International Law comes only from law signed by the contracting parties. In national law, the regulating standard has its basis in the regulating capacity granted to the organ which dictated the regulation, and the capacity of that comes, in turn, from law, for which the reference point is the constitution, which sees law as the fact generating rights. However, the constitution is

9 Cf. United Nations declaration of 1 January 1942 and articles 1, section 2 and 55 of the United Nations Charter.

10 Cf. Salvioli, *Règles générales du droit international de la paix*, in *Rec. Cours de la Haye*, 1933, IV pp. 5 et seq.; *Kelsen Das Problem der Souveranitat und die Theorie des Volkerrechts*, Tubinga, 1920.

not the foundation of all rules, but must be understood as the instrument which embraces all the rules which confer specific individuality and own structure to a determined ordinance[11]. In accordance with institutionalist theory[12], the international legal rules acquire their validity and effectiveness from the constitution of the ordinance to which they belong, provided that that ordinance is of an independent entity. The production of the international legal rules determines a fact that does not need to seek legitimacy in a higher rule. All legal ordinances are based on rules the binding nature of which does not depend, in turn, on another rule, but on their own basic rules[13]. All this demonstrates that the international legal ordinance is constituted by rules which form a logical and rational system, binding among themselves in an obligatory form[14]. The international ordinance, in fact, is constituted by subjects and organs whose legal relevance comes directly from the ordinance in which they are included. The international ordinance could not preserve its identity without there being, at least, one rule permanently expressing its continuity[15]. This rule is what attributes effectiveness to custom. Custom is the primary source of International Law. The basic rule, therefore, which attributes the obligatory nature to custom, is none other than the primary rule on the production of law[16]. The predominant thesis on the sources of International Law is that which sustains that the international ordinance would not have available appropriate legal sources, suitable for the production of rules of common law, but a single instrument suitable for the creation of rules of private law, in other words, agreement. In accordance with this reasoning, the rules of International Common Law do not come from any source, but rather are spontaneous, freely and gradually formed, linked with the development of relationships in international society. Should this be true, we would be in the presence of an ordinance in which one part of the rules do not come from its sources, but from a free process and impossible to set in

11 Cfr. Monaco, op. cit., page. 53.
12 Cf. Romano, *L'ordinamento giuridico*, Pisa, 1918.
13 Cf. Perassi, *Teoria dogmatica delle fonti di norme giuridiche in diritto internazionale*, in *Riv. Dir. Intern*, 1917, pp. 197 et seq.
14 Cf. Monaco, op. cit., page 56.
15 Cf. Ziccardi, *La Costituzione*, op. cit., pp. 18 et seq.
16 Cf. Monaco, op. cit., page 58.

a legal frame. In the international ordinance, the spontaneous right of formation has acquired an indisputable position of dominance[17]. Thus, in the international ordinance, the elements which preserve integrity are originality and independence[18]. International Law is not a law of exclusively voluntary formation, in that not all its rules derive in every case and always from agreement with the subjects. When the naturalist orientation prevails, the sources are understood to be all those causes and all those elements which determined the emergence of the International Community, and for this reason the sources were considered to be the nature of things, human reason, the need of community living and the relationships between States, the legal awareness or conviction common to all peoples, and so on successively. However, later, the positivist orientation brought out that it is necessary to keep well marked the elements pointed out earlier of sources in the true sense, both formal and legal. Rules the purpose of which is the fact of creation of Law are situated on a very high plane of the will of States, and are called rules above legal production. To the category of constitutional principles of the international ordinance there belong, among others, the rule which sanctions equality between subjects, the rule which determines their liberty, the rule which admits self-protection and the rule which authorises recourse to war. In what is relative to the classification of these rules as constitutional principles, there is no unanimity in doctrine. A principle of national law, to enjoy international relevance must:

- Have a breadth so general as to cover a vast complex of international legal rules;
- Have a close link with International Law, that is to say, it must not deal only with a general principle of Law;
- Be so characteristic of the international ordinance in force as not to be ignored, in the sense that it is a norm which is of effective application at the present time.

On the basis of the requirements indicated, the following principles would be of a constitutional character: that of sovereignty, that relating to recognition as a general

17 Cf. Ago, *Scienza giuridica e diritto internazionale*, op. cit., page 108.
18 Cf. Monaco, op. cit., page 66.

institution of the International Community, the principle of consensus, and the principles of good faith, self-protection, responsibility and, finally, the principle of freedom of the seas. The international legal rules have to have, each of them, their source well identified in agreement or in custom, insofar as the principles which cannot be traced back to a formal source do not have a legal character. Legal positivism has established a demarcation line between the authentic positive law, as *jus positum*, and International Law which does not come from any source. Thus, the moment has arrived to move away from a narrow vision and admit that International Law also includes those rules which are differentiated from the rest not through having been produced from a different source superior to Law, but by being rules which have no source and have not been produced or formulated by any body. The positive method, as a system which guarantees the limits of law with respect to the other similar sciences, continues to be valid. But what is important is to recognize the legal character also for those rules which do not come from a formal source. In this sense, the concept of the constitutional rules of the International Community responds almost totally to the requirements set out by the doctrine indicated. A most important point is the foundation of Common Law. This is spontaneous law, consequently not coming from any source, so that it does not rest on any fundamental rule, precisely on that rule relative to the legal production which it contemplates as a source of International Law.

2. Custom is, also, in the international ordinance, a fact of legal production. Custom is seen directly, as a fact of legal production, by the corresponding rule, which forms part of the constitution of the international ordinance. Depending on the ordinance in which it operates, custom will have to a more or less broad field of application, but this will never affect its nature as a regulatory fact. In this way, when dealing with analysing this phenomenon in the international ordinance, we are not facing international custom, but dealing with a specific custom which operates in the international ordinance. Custom consists of two elements, one material (*usus*), which is given by the uniform repetition in time of a same behaviour, and another psychological (*opinio juris*), consisting of the conviction that such behaviour is legally obligatory. This phenomenon occurs easily also in the international ordinance, in which, since there is a

institution of the International Community, the principle of consensus, and the principles of good faith, self-protection, responsibility and, finally, the principle of freedom of the seas. The international legal rules have to have, each of them, their source well identified in agreement or in custom, insofar as the principles which cannot be traced back to a formal source do not have a legal character. Legal positivism has established a demarcation line between the authentic positive law, as *jus positum*, and International Law which does not come from any source. Thus, the moment has arrived to move away from a narrow vision and admit that International Law also includes those rules which are differentiated from the rest not through having been produced from a different source superior to Law, but by being rules which have no source and have not been produced or formulated by any body. The positive method, as a system which guarantees the limits of law with respect to the other similar sciences, continues to be valid. But what is important is to recognize the legal character also for those rules which do not come from a formal source. In this sense, the concept of the constitutional rules of the International Community responds almost totally to the requirements set out by the doctrine indicated. A most important point is the foundation of Common Law. This is spontaneous law, consequently not coming from any source, so that it does not rest on any fundamental rule, precisely on that rule relative to the legal production which it contemplates as a source of International Law.

2. Custom is, also, in the international ordinance, a fact of legal production. Custom is seen directly, as a fact of legal production, by the corresponding rule, which forms part of the constitution of the international ordinance. Depending on the ordinance in which it operates, custom will have to a more or less broad field of application, but this will never affect its nature as a regulatory fact. In this way, when dealing with analysing this phenomenon in the international ordinance, we are not facing international custom, but dealing with a specific custom which operates in the international ordinance. Custom consists of two elements, one material (*usus*), which is given by the uniform repetition in time of a same behaviour, and another psychological (*opinio juris*), consisting of the conviction that such behaviour is legally obligatory. This phenomenon occurs easily also in the international ordinance, in which, since there is a

constitutional principle which sees custom as a regulatory fact, the legal production of common law rules is characterised in all its elements. In the State ordinance, custom is considered as a secondary source or, which is the same, custom acquires effectiveness whenever the law so establishes. International doctrine has always understood that the phenomenon of custom cannot have its own life without international agreement. Thus, recourse to custom is optional and is founded exclusively on the wish of the parties. There is a part of the doctrine which understands that not all the everyday rules have to be ratified by a written agreement, and goes much further, configuring custom as agreement, which can even be tacit. The theory which sees custom as a tacit agreement began to be superseded from the moment in which the principle was affirmed that International Law is not all of voluntary production, but that there is a general nucleus of principles and rules of a necessary kind. Therefore, it has to be recognized that international legal custom is a fact of slow and progressive preparation which, through a complex psychological process, such as that of the formation of *opinio juris*, is imposed as a legal rule on the members of the International Community, in that it is independent of an act of will of those members by which the rule derived from custom is received and validated. With regard to the limits on the effectiveness of customs it has to be noted that these affect not only the objective side of it, that is, the content of the rule, but also the subjective side, that is, its applicability to a greater or lesser number of subjects. In fact, the customary rules can extend their effectiveness to an indeterminate number of subjects of International Law, to the degree that they can bind even those States which have taken no part in the process of their formation. Every time a State has founded a claim on a customary rule, evidence has never been requested that the State against which the claim is made has participated, with its repeated behaviour, in the formation of the custom. Any effective behaviour, from which it emerges that it is becoming a practice in which States inspire their conduct, can be understood as an element of evidence and of the recording of custom. This does not prevent, on occasions, evidence of the custom being deduced from manifestations of a legal nature, such as internal legislation or case-law judgements. Therefore, it is necessary to take into account the distinction between general customs and particular

customs. The first bind all the members of the International Community, while the second apply to a smaller group of States, or may even be only between two States, being applied therefore only to these States. International custom is of an introductory nature when it creates new rules; it has an interpretative nature when, clarifying them, it ratifies rules already existing; it has a repealing nature when it consists of that behaviour which is known as disuse and which is directed to suppressing the effectiveness of other rules; whether customary or of another nature.

3. **Together with International Law of necessary or involuntary formation, there is a broad sphere of international legal rules of voluntary origin. These arise from declarations of will by the subjects of International Law and constitute the international ordinance**. Whenever we are concerned with treaties, conventions, protocols and others, we are in the presence of acts by which rules of all kinds are created, orientated to regulating the very diverse relationships existing between the members of the International Community. Agreement is constituted by the declarations of will of two or more subjects. Now, these declarations are not unilateral, but reciprocal, to the degree that the declaration by each subject taking part in the agreement is not for itself, but refers to the other subject or subjects and is destined to be added to the corresponding declarations by those others. Also, these declarations of will have an identical content. In this way, international agreement appears as a legal act directed to the creation, alteration or extinction of international legal rules. This figure includes in itself, in general, the international treaties. Even supposing that all the conventional regulation production is summarised in the figure of the agreement, it does not follow from this that the foundation of the obligatory nature of the rules arising from that source must obey a single principle. With regard to the limits of effectiveness of the agreement, it should be pointed out that this source is different from custom since, where the latter source is suitable for the establishment of legal rules for an unlimited number of subjects, agreement is characterised by the fact that the rules created through it only bind the subjects who took part in it. As subjects it can include subjects apart from those who participated, by their declarations of will, only if those subjects, in their turn, declare their wish for content identical to that of the

subjects originating the agreement. However, this does not happen in all international agreements, but only in those treaties called "open", which are provided with the adhesion clause, to which those States can recur which have the intention of taking part in them. The rules created by an agreement have a purely voluntary foundation, which gives life to rules of International Law of a particular nature. Acts of relevance for International Law are declarations of will (treaties, waivers, declarations of war, agreements of common organs), or of representation (the opinions that the consultative organs adopt for a determined subject or for an international institution), or of feeling (vows, invitations, presentations of excuses and similar). In private law there is an ulterior distinction between international legal acts and business. Private legal business never has its own regulatory effectiveness, an effectiveness which, on the other hand, is typical of international agreement. Also fundamental is the difference existing between unilateral acts and bilateral acts. The first emanate from one or several subjects jointly, either through their particular organs or through common organs, and are characterised by the fact of being directed to other subjects which remain outside the act and do not participate in any way in its formation. On the other hand, bilateral acts result from two or more parties which compare and contrast among themselves, each of them as the bearer of particular interests. For this reason, bilateral acts are not directed to outside subjects but are the fruit of declarations of will by all the participants. A notification is a declaration of formal will by which a State makes other States aware of the occurrence of certain facts. In general, the notification is optional. It is only obligatory when it is prescribed by the rules of particular International Law. Notifications are made between the States using the normal organs of international relationships, although they can also use the organs of a third State.

4. Recognition can be defined as that act in virtue of which a subject of International Law declares having recognized the existence of a determined situation, of fact or law. Since the situation considered is an event which is already there in the international ordinance, this means that recognition leads to the consequence that the State which makes the recognition cannot, later, deny the existence of that situation of fact or law and is, for this reason, obliged to observe the content that the rules in force impose for

the existence of similar situations. Recognition also operates as a symptom of the line of conduct that a subject of International Law has the intention of maintaining in the face of a certain situation of fact or law. Nevertheless, it is clear that this can only be a matter of political action by the State and that the formulation of recognition, or its refusal, will only have consequences of a political character. It is understood, therefore, that the will to recognize, or not to recognize, depends on the discretional evaluation of the interested State. This State will proceed to recognition or not according to whether the new situation does or does not damage its own rights or interests. In this way, a State, even accepting that the government which has been installed in another State has all the necessary requirements to be considered as the government of that State, can still decide not to recognize it. The State in question, in behaving in this way, not giving its political approval to the new body, makes known to the other its intention not to maintain friendly relations with it. **Therefore, the recognition of other subjects of International law is not a constituent element of international subjectivity**[19]. The theory of constituent recognition is unacceptable. This thesis understands recognition as agreement. It is true that if recognition is configured as agreement, it has effects only between the parties, and cannot have effects on third parties, which can remain indifferent to that agreement. The theory of recognition with constituent effects is unacceptable, also for the simple fact that International Law is formed in virtue of particular agreements between subjects of International Law. Recognition is a simple unilateral legal act which confirms the new existence of a sovereign authority. In fact, the Supreme Court of Cassation, in judgement no. 468/1975, established that an act of private law, formed in a foreign State and not recognized by the Italian Republic, can be effective in the territory of the Italian Republic. In the same way, in Montevideo in 1933 a convention was approved on the rights and duties of States, in which it was affirmed that the political existence of a subject of International Law is independent of recognition by other States and that, even before recognition, the subject of International Law is considered to exist in full title. In the same way, in a resolution

19 Cf. *Parere pro-veritate*, by Umberto Fragola, professor of Administrative Law a Naples University, Istituto della Stampa, Naples 1956, pp. 29 and 31.

adopted in 1936 by the Institut de Droit International the non-constituent nature of international recognition was reaffirmed. The same affirmation is included in the Charter of the Organization of American States, adopted in Bogotá, on 30 April 1948. **Therefore, it is admitted as a general matter that recognition, unilateral or bilateral, will never have effectiveness *erga omnes***. In reality, the true meaning of recognition is political. Where it refers to the form in which recognition has to be given, it must be said that there are no absolute prescriptions, but that recognition can be given in any form, that is to say, it can be written, tacit or oral.

5. The waiver is an international and unilateral legal act the purpose of which is to renounce a right. In this case, we are dealing with a waiver in the strict sense, in International Law being, to a great degree, of voluntary origin, it is necessary to admit that, in the same way as a determined right is constituted by the will of a subject, by that same will of that same subject the right in question is renounced. On the contrary, rights of a necessary origin, such as constitutional rules and general customs, are of a non-renounceable nature. Thus, for example, a State cannot refuse to protect foreigners resident in its territory, this being an obligation which is imposed by a general everyday rule. And again, the rights which constitute the means necessary for the exercise of a legal duty are not susceptible of waiver. In fact, a right can be waived, but never an obligation. The waiver can be express or tacit, which is what can be deduced from behaviour or conclusive facts. As a general rule, the wish to renounce is never presumed.

6. A protest is an international legal act of a unilateral nature. The State which formulates the protest is saying that it does not wish to give its conformity to the behaviour of the State against which the protest is raised. The protest, in general, takes the form of a diplomatic note. In contrast, international bilateral acts are the result of a set of declarations of will destined to regulating the most diverse legal situations.

7. International bilateral acts are treaties, conventions, declarations, protocols, exchanges of notes, etcetera. As well as bilateral treaties, concluded between two subjects, there are group treaties, concluded by a large number of subjects of International Law. Treaties can be closed or open. Closed treaties are not susceptible of

being extended to other entities. Open treaties are provided with a clause which allows for other States to join. The existence of an international treaty requires an agreement between States or between bodies considered as international legal persons. The specific capacity to establish treaties is no more than a manifestation of the general international capacity of the subjects. Those acts in which one or more individuals or internal legal persons figure as parties cannot be considered as international treaties, whether or not dealing with State organs. Thus, contracts formalised between two or more States in their condition as subjects of national law are not considered as treaties, for example, in a contract by virtue of which a State buys a palace from another State. The existence and validity of the agreement is governed, as a general principle, by liberty of form. It is for the parties to choose the most appropriate formal type in order to leave a due record.[20] Treaties can deal with any matter of interest to the parties.

8. Subject of International Law is understood to mean that body over which there are rights and obligations emanating from the international legal ordinance. In other words, legal subjectivity is understood as legal capacity, that is, as the capacity of a subject to be the holder of rights and obligations. The formation of a subject of International Law is a phenomenon essentially political and pre-legal. This happens on the occasion of the affirmation in fact of a political authority which is sovereign and independent in international relations. To qualify a new body as a subject of International Law, reference is generally made to the constituent elements of that body: people, territory and sovereignty. It must be remembered, however, that there is no rule of International Law which binds these elements to assumption of the condition of an international legal person. International legal personality is understood as being different from State legal personality. In both cases there is the capacity to be the holder of rights and obligations. In the State legal ordinance, this capacity is regulated by a specific internal rule. In International Law, on the other hand, it needs a legal predetermination, by a rule, of the corresponding subjective sphere. The identification of subjects of International Law is a question of social, actual or effective analysis. The existence of

20 Cf. Vitta, *La validité des traités internationaux*, cit., p. 216.

specific rules attributing international legal personality is denied. The emergence or disappearance of an international body is subordinated to a complex evaluation of the general legal rules. Therefore, these subjects are identified by a complex consideration and by an analysis of the rules of the international legal ordinance. In every case, there must be excluded specifically from the group of subjects of International Law those States which are members of a federation, entities dependent on another State and territories subject to fiduciary administration. Belonging or not to the United Nations does not constitute a fact which determines the emergence of a subject of International law. For example, nationalist China (Island of Formosa or Taiwan) is a subject of International Law although not a member of the UN and not recognized by many countries, such as Italy, for example.

9. The international organization is a voluntary association of subjects of International Law, constituted by international acts and with a specific internal legal ordinance. Before 1945, internationalist doctrine only considered States as subjects of International Law. Immediately after the war there was a change of trend. The International Court of Justice recognized the status of a subject of International Law for international organizations on two occasions: a) In the consultative opinion dated 20 November 1980, on interpretation of the agreement in the World Health Organization and Egypt, stating that the aforesaid international organization is a subject of International Law bound, as such, by all the obligations which arise from the general rules of International Law, its constituent act and the agreements of which it is a party; b) In the opinion on the legality of the use of nuclear arms by a State on the occasion of armed conflict, of 8 July 1996, at the instance of the World Health Organization. On this occasion, the Court repeated that **"international organizations are subjects of International Law which do not enjoy general competences in the style of States. The international organizations are governed by the principle of speciality, that is to say, the States which created them have given them competences of attribution the limit of which depends on common interests, the promotion of which constitutes the mission that the States themselves have entrusted to the organization"**. In what refers to personality under national law of the

international organizations, which means recognition of the capacity to act, such as for example, entering into contracts in private law, buying and selling goods, etcetera, it is essential to distinguish between personality under national law in the territory of the member States and personality under national law in the territory of other States. An interesting question relates to the determination of the joint responsibility of member States in relation to the national law obligations that the organization accepts in the exercise of its functions. In this respect, there are the judgements of the House of Lords of the United Kingdom, in 1989, and the Arbitration Court of the International Chamber of Commerce of Paris, in 1984, in relation with the insolvency of the International Tin Council and the Arab Organization for Industrialization. In both cases the subsidiary responsibility of the member States was admitted, although by reason of a rule, included in their constitutions, which attributed an internal legal capacity to the organizations. Notwithstanding the above, the House of Lords excluded the existence of a rule of International Law which would regulate the matter, while the Arbitration Court of the International Chamber of Commerce in Paris identified the rule in the general principle of Law by reason of which international organizations are endowed with subjectivity under International Law and, as such, must answer for the trading obligations which they accept with other bodies. Until the sixties it was correct to affirm that the subjects which could acquire the position of member of an international organization were those which, in accordance with International Law, were considered as States and, therefore, had an effective and independent apparatus of government of a determined territorial community. Today, international organizations are recognized to have the right to form part of other international organizations. For example, the FAO, which in the beginning was an association only of States, has adopted a constitution open to being joined by international organizations other than States. In practice there are international organizations in fact, in other words, international organizations which are not based on a constituent treaty, such as, for example, the Organization for Security and Cooperation in Europe, which originated in the diplomatic conference held in Helsinki in 1975. This international organization has neither territory nor people, but is still a subject of International Law. Today, this personality is fully

recognized by case-law. Above all, the International Court of Justice has played a fundamental role in ensuring that the *opinio iuris* is moving towards recognition for all international organizations of the position of subjects of International Law, endowed with legal personality. For example, at the end of the sixties, due to the synergy of a series of internal and international acts, the World Tourism Organization was formed, without there being a constituent act which had the legal character of an international treaty. At present there is no rule of International Law which prevents private people from being members of an international organization. It is sufficient to think of the World Trade Organization (WTO), which has among its members States, international organizations, territorial entities other than States and also individuals.

10. Non-governmental international organizations (NGOs) are non-profit associations created on the initiative of individuals to achieve, on a transnational level, a purpose of a general nature. From this it is understood that they have not been formed by an international treaty, but by reason of an agreement in national law (generally called a Statute). By reason of the spatial ambit of their action, Non-Governmental Organizations can be of a regional, continental, intercontinental or world nature. Due to their purposes, a distinction is usually made between general or cultural NGOs, whose purpose is communication and cooperation, and specialised NGOs, which are for specific ends such as, for example, the international movement for the protection of children. There are numerous sectors in which they carry out their activities: a) Humanitarian, such as the International Red Cross and Médicins Sans Frontieres, which supply help and care for people who are victims of armed conflicts or natural disasters. The General Assembly of the United Nations, with the resolution of 8 December 1988, has given NGOs the status of subjects of International Law, calling on all States to deal with them and provide them with access to their territory; b) Religious, such as the Ecumenical Council of Churches; c) Political, such as the Socialist Federation; d) Scientific, such as the International Law Institute; e) Amnesty International, for the protection of Human Rights; f) Greenpeace, for the protection of the environment. With regard to the International Committee of the Red Cross, also known by its initials ICRC, it is appreciated that it was founded in Geneva as a private

association under Swiss law (art. 2 of its Statute). Articles 60 et seq. of the Swiss Constitution provide that the Committee is governed by the national law. The President and the other functionaries of the International Committee of the Red Cross (ICRC), when visiting other countries, receive the same treatment as is offered to Heads of State and Heads of Governments. In all the States of the United Nations it has an accredited diplomatic mission, and the credentials of the Heads of Mission refer to the ICRC. In short, there are three elements which allow recognition of the fact of the ICRC by the States to be presupposed: A) The right of legation: the ICRC has the ability to send missions to States (right of active legation); the States accredit their representatives to the ICRC (right of passive legation). B) The ICRC has begun to formalise establishment agreements, that is to say, international agreements with States and with other international organizations. C) The capacity of the ICRC to present its own claims on the international plane.

11. The subjectivity of International Law was recognized by the United Nations on the occasion of the resolution of the International Court of Justice in the Bernadotte case, in its consultative opinion of 11 April 1949. On that occasion, the International Court of Justice recognized full international subjectivity for the United Nations. The question was to decide whether or not the United Nations had the right to compensation for the death, in 1948, of two of its officials who were on a special mission in Israeli territory, the Swedish Count Folke Bernadotte, sent as a mediator between Arabs and Hebrews, and the French Colonel André Sérot, who was there as an observer. The question give rise to a dispute on the possibility, or impossibility, for the United Nations to claim compensation for damages or whether this right fell, on the contrary, and in accordance with international common law rules, on the States of which the aforesaid United Nations officials were nationals. The case was submitted to the International Court of Justice which, in its consultative opinion of 11 April 1949, resolved in favour of the **United Nations**, affirming that it **"is a subject of International Law, holder of international rights and obligations, which enjoys the capacity to assert its rights by international claims"**. This conclusion confirms everything established in the United Nations Charter, which gave the organization

means of action to which specific ends were entrusted. It defined the position of the member States against the organization itself, binding them to give full assistance to all the actions taken by the organization and granting it the same legal capacity, privileges and immunities on the territory of each one of the member States, and providing the organization with power to conclude agreements with the States themselves. The members of the United Nations Organization, in accordance with the terms of article 4 of its Statute, and its purposes, can only be States, understanding this term as meaning a body which exercises effective and independent authority of government over a certain territorial community. But in the fifties, and in virtue of a common law standard formed in the headquarters of the United Nations, the status of permanent observer was recognized for subjects of International Law without any territory, such as the Sovereign and Military Order of Malta, the Holy See and all those organizations which are lovers of peace. The General Assembly of the United Nations, through its resolution 52/250, of 7 July 1998, attributed to the Organization for the Liberation of Palestine (OLP), the special status of observer which includes, among other things, the right to speak on all questions included on the agenda of the plenary sessions of the Assembly, the right of reply and the right to intervene on the question of the Middle East, presenting motions and promoting projects for resolution or decision. The demonstration that the lack of one of the elements considered fundamental for the existence of a body of International Law, classification as a State, is irrelevant, results, logically, from the presence in the international ordinance of subjects of International Law lacking territory, such as the Holy See, the Order of Malta, the United Nations, international organizations and Non-Governmental Organizations.

12. The Holy See or Apostolic See owns the property of Vatican City, as well as other property: the Basilica of St Mary Major, Basilica of St. John Lateran and the Basilica of St. Paul. In the past it had its seat in Avignon, that is to say, in a territory of its property. In other words, the Holy See can be transferred to a place indicated by the successor of the Apostle Peter, in his status as supreme governing authority of the Catholic Church. In fact, the Holy See continued to be a subject of International Law, with the right of active and passive legation, even during the period from the

occupation of Rome by Italian troops (20 September 1870) until the constitution of the Vatican City State (11 February 1929). By means of the Lateran Treaty, Italy attributed to the Holy See full ownership of the Vatican State and to the Pope, absolute power and sovereign jurisdiction over the Vatican, including all its appurtenances and endowments. From the diplomatic viewpoint it is the Holy See, and not the Vatican City State, that enjoys all the prerogatives of the other States, with nuncios and ambassadors who exercise, in accordance with the rules of International Law, the right of active and passive legation.

13. The Sovereign and Military Order of Malta is a religious order which emerged in the 12th century and which, in the past, exercised its sovereignty over Rhodes (1310-1522) and Malta (1530-1798). The birth of the Order goes back to 1048. Some merchants from the maritime republic of Amalfi had obtained from the caliph of Egypt permission to build a church, convent and hospital where they could attend to pilgrims of whatever race or faith. The Order of St. John of Jerusalem became independent under the direction of its founder, the Blessed Fra' Gerard Thom, also called Sasso. Pope Paschal II, with the Bull of 15 February 1113, put the hospital of St. John under the protection of the Holy See, with the right to free election of its directors, without interference by the lay or religious authorities. Following this bull, the Hospitallers became an order independent of the Church. All the knights were religious, bound by the three monastic vows of poverty, chastity and obedience. The constitution of the Kingdom of Jerusalem, the work of the crusades, bound the Order to accept the military protection of the ill, the pilgrims and the lands won from the Muslims by the crusades. To its mission as hospital was added the obligation of defending Christianity. Later it adopted the octagonal cross, which still today is the symbol of the Order. At present, the Order of Malta has the status, in full title, of a subject of International Law lacking territory which exercises its jurisdiction over a population of approximately 12,500 knights and ladies. In Italy it receives the treatment proper to a sovereign State, with all the diplomatic prerogatives and guarantees, both with respect to its organs and to its seats in Italian territory. In the past, some scholars (Professor Umberto Fragola, of Naples) showed serious doubts over the international subjectivity of the Order of

Malta, since a judgement of the Cardinals Court of the Holy See, in 1953, considered it an order dependent on the Sacred Congregation of the Clergy, although Professor Gaetano Morelli, professor of International law of Rome University, sustained accurately that the independence of the Order of Malta is fully accredited in its relations with States and in its relations with the Holy See. The independence of the Order as against States is fully accredited by the fact that it maintains diplomatic relations with a hundred and four States, and official relations, at ambassador level, with the European Commission, Belgium, France, Germany, Luxembourg, Switzerland and Canada. In this respect, the attitude of the Italian State is of special importance, since it is in Italian territory that the Order has its seat, a circumstance this which would have afforded the Italian State a great many occasions on which to affirm its supremacy over the Order. Italian case-law has sustained, repeatedly and constantly, the Order's international personality and, consequently, its independence. The Order's diplomatic relations with other States are governed by International Law, both in what affects the procedures of establishment and closure of diplomatic missions and in dealing with the treatment which must be given to its agents. With respect to the Order of Malta's independence from the Holy See, a distinction has to be made between spiritual relations and diplomatic relations. The first are regulated by Canonical Law, while the second are regulated by International Law. The thesis of the Order of Malta's dependence on the Holy See is completely unfounded. The proof that the Order is totally independent of the Holy See comes from the fact that its diplomatic relations are governed by International Law. The Order's agent at the Holy See receives the special title of "Minister plenipotentiary and special envoy". This means that the Order and the Holy See are placed, the one against the other, as subjects of International Law, that is to say, they are placed in a position of reciprocal independence. The Holy See, in maintaining diplomatic relations with the Order, emphasises the fact of being, not before a person under canonical law and dependent, as such, on the Holy See, but before a subject of International Law, totally independent and, therefore and in that sense, sovereign. Naturally the Order's independence does not affect the relations between two entities which are subject to the universal competence of the Holy See in

religious matters, relations which take the form of the Holy See's supremacy in this field. As, for example, Italy appoints as military chaplains in its armed forces only priests ordained by the Catholic Church. This does not mean that Italy is a State of limited sovereignty. The independence of the Order of Malta, with respect to both States and the Holy See, shows, as a necessary consequence, that its internal legal ordinance is not a derived ordinance, but original. It is, in other words, a perfectly autonomous ordinance, the effectiveness of which finds its foundations in the ordinance itself and is not derived from an outside ordinance, that is to say, from another ordinance. One of the many manifestations of the original and autonomous nature of the internal ordinance of the Order is its faculty of creating legal persons such as, for example, missions and associations of knights. These entities are treated in the different States, such as the Italian, as legal persons without the need for the State to produce the administrative act required by its national law for the attribution of personality. This means, as the aforesaid Professor Gaetano Morelli says, that these types of entities have the consideration of foreign legal persons, in the same way as the legal persons arising in the field of the ordinances of foreign States. But, in fact, it cannot be affirmed, continues Professor Gaetano Morellin, that they are ecclesiastical bodies as would be affirmed, on the other hand, if the ordinance of the Order, in which they have their origin, had to be considered as part of the canonical ordinance. In the field of canonical law, it is the prerogative of the Pontiff to choose the Prelate of the Order, from a short list of name proposed by the Grand Master. The Prelate is the ecclesiastical superior of the Order's clergy. The Order of Malta is the principal successor of the ancient order of the Knights Hospitallers, founded in 1050 by the venerable Fra' Gerard, which acquired its sovereign nature, that is to say, independence from the Holy See, on 15 February 1113. The Order, since 1834, has had it seat in Rome at Via Condotti, close to the Piazza di Spagna, and it has a presence in more than a hundred and twenty countries, with initiatives of a charitable and welfare nature. It is classified as a sovereign body and, by reason of this claim, its seat, the Palacio Magisterial and the Villa de Santa Maria of Priorato in the Aventino enjoy, with the authorization of the Italian State, an extraterritorial status. The Order mints its

own currency, the Maltese escudo, identifies its vehicles with the registration *SMOM* and carries its own naval registration. It holds its national festival on 24 June. The website, http://it.wikipedia.org/wiki/Sovrano_Militare_Ordine_di Malta, published, on 26 October 2012, the following details:

1) Official name: Sovereign Military Hospitaller Order of Saint John of Jerusalem of Rhodes and of Malta.

2) Official language: Italian (principal working language)

3) Other languages (for work): German, French, English, Spanish.

4) Seat: Palacio Magisterial, Rome

5) Form of government: Religious Order

6) Prince and Grand Master: Matthew Festing (since 11 March 2008)

7) Grand Chancellor: Jean-Pierre Mazery

8) Grand Commander: Gherardo Hercolani Fava Simonetti

9) Patron: Archbishop Paolo Sardi

10) Independent since 15 February 1113

11) Admitted to the United Nations since 24 August 1994 (as observer)

12) Area: 0 km²

13) People (2007): 12,500 inhabitants - density: inhab./ Km.

14) Currency: Maltese escudo (medal currency)

15) Energy: 100 kW/inhab

16) Continent: Europe

17) Time zone: UTC + 1

18) National hymn: Ave Crux Alba

19) Telematic domain: not assigned (for the moment it uses .org)

20) Telephone prefix: not assigned (at present the prefix +39, for Italy)

21) Automobile registration: SMOM

22) National festival: 24 June (festivity of St John the Baptist)

TIMBRE DEL ESTADO

0M3283778

CLASE 8.ª

23) Official website: http://www.orderofmalta.org/

At present, the Order of Malta is an internationally recognized organization: it has its own flag, a constitution, a representative, executive and legal organs, and it issues passports and stamps, also maintaining independent diplomatic relations with more than a hundred nations (and with all the other international organizations). These characteristics allow it to conclude agreements with other subjects of International Law (States, international organizations, Catholic Church, etcetera), working in close relations with them to carry out missions of care for the poor and ill in many countries of the world, as well as those of the defence of the Christian faith. Traditionally, no other subject of International Law has ever called in doubt the international subjectivity of the SMOM. And this detail of fact, always traditionally and with all its shades, is how the SMOM is listed in the manuals of International Law, together with the States, the Catholic Church (distinct, in this sense, from the Vatican State), the UNO, the EU and other International Organizations. In Italy, the SMOM enjoys the right de extraterritoriality and the relations between this entity and the Italian State are carried out from their respective embassies. **The condition of international subject has been ratified even by the Supreme Court of Cassation, which recognized the Order's taxation immunity, as a particular form of international subjectivity**. The Ministry of Defence and Ministry of the Interior deal with the organization of vehicle registrations for the *Sovereign Military Order of Malta*, basically for ambulances and means of assistance. The Order's registrations take the normal form of diplomatic number plates, starting, in the case of the Order of Malta, with the letters XA. The Instituto Poligráfico y Ceca del State, from time to time, produces the Order's stamps for its postal service, *Poste Magisteriali*, which formerly minted its currency in London. The minting of coins, the Maltese escudos, which took place in Rome (1961), Paris (1962) and Arezzo (1963), was entrusted after 1964 to the Ceca of the Order of Malta. On 5 December 1998, the Maltese Republic formalised an agreement with the Order by which it made available to it, for a period of 99 years, the fortress of Sant'Angelo. This place has the right of extraterritoriality and is the seat of numerous

meetings of knights, even at international level. The Order, before the United Nations Organization, obtained the status of *observer member* in the General Assembly of 24 August 1994, in the same way as other international organizations, so that it has the ability to take part in the Organization and in its agencies, although it may not take part in the voting, since the United Nations is an international organization composed only of States. At all times Italian case-law has recognized the international personality of the Sovereign Military Order of Malta. This position is evidenced by the "eloquent indication of the exchange of diplomatic notes which took place on 11 January 1960 between Italy and the Order" (Judgement of Cassation no. 2056, of 25 July 1964); and consequently, **"in the SMOM being a subject of International Law, in all identical to a foreign State, it is due the legal treatment to which States have a right"** (Judgement of Cassation no. 1653, of 6 June 1974) and **"the resolutions given by its courts have the nature of jurisdictional resolutions of a foreign State"** (Court of Appeal of Rome, 23 January 1978). In more recent cases, the Supreme Court of Cassation has affirmed the jurisdictional competence of the Italian courts in employment trials although it has never clearly refused the status of a subject of International Law to the Order (Judgement of Cassation no. 960, of 18 February 1989; no. 3374, of 19 July 1989; no. 3360, of 18 March 1992; no. 17082, of 12 November 2003). More specifically, the Civil Court of Cassation, United Sections, in its judgement no. 2415, of 26 February 1993, noted that "the position of the Sovereign Military Order of Malta in the Italian ordinance has been defined, by these United Sections, from judgements no. 3374, of 19 July 1989; no. 960, of 18 February 1989; no. 1073, of 3 February 1988; no. 1502, of 20 February 1985; no. 2051, of 3 May 1978; no. 1653, of 6 June 1974, and others referred to in it, by which the international subjectivity of the Order has been confirmed, demanding the application to it of the principle of immunity of jurisdiction".

14. In the 1950s, the Supreme Court of Cassation ratified and recognized the subjectivity of International Law for other non-national equestrian orders, such as the Order of St. George of Antioch of the Casa Normanna de Altavilla Sicilia – Naples (Judgement of the Supreme Court of Cassation, section III, of 23 April 1959, in La

Giustizia Penale 1960, p. II, Diritto Penale, pp. 203-206). In this judgement, the Court of Cassation repeated the principle that **"not only a State can be a subject of International Law but such condition can be taken up, by reason of their purpose, by other organisations"**.

15. The principle of self-determination of peoples finds its confirmation in three resolutions of the General Assembly of the United Nations, from the years 1960, 1970 and 1974, in which the right of self-determination was affirmed as the right to determine freely a people's own political condition and to pursue freely its economic, social and cultural development, as a fundamental right of man against foreign subjugation or yoke. From which it follows that the use of force or other equivalent acts does not constitute aggression when it is exercised by private deprived by force of the right of self-determination. Internationalist doctrine tends to deny to peoples the status of subject of International Law. It admits, in every case, a single exception, constituted by the right of self-determination. A limit on the right of self-determination emerges from a respect for territorial integrity: in the light of this, self-determination is permitted for religious, ethnical and cultural minorities only in the presence of a waiver, by such minorities, of the territorial fragmentation of the State. Therefore, according to International law, recognition of the right of internal self-determination is excluded, as it would produce the de-legitimisation of all governments in power without the consensus of the majorities of their own peoples. The protection and respect for minorities is equivalent to the right of self-determination of peoples. For example, Italy, with the Peace Treaty of 1947, recognized for the German-speaking Italian minority a series of special privileges and special legislative powers in the province of Bolzano.

16. The subjects of International Law, as legal entities, that is, as abstract group bodies, act in international relations through the persons who constitute their organs. These persons exercise their faculties in virtue of rules exclusively set out in the act constituting the international body[21]. The persons linked to the life of the body become

21 Cf. Monaco, op. cit., p. 261.

holders of right and obligations in the forms and under the terms established in their own internal ordinance. And this is so when the individual acts in the capacity of an organ of the international body. Kelsen sustains that the individual who acts for and on behalf of the body answers for illicit acts generated, by his mediation, by the international body[22]. International rights also correspond to those persons, in an exceptional manner. These rights would have emerged as international legal rules and the individuals would have been invested directly with the faculty of expecting, from a State, a certain behaviour, that is to say, the faculty of making claims against States, as envisaged in article 4 of The Hague Convention of 1907, for the constitution of an International Court of War Booty, and also as envisaged in the Washington Convention, of 20 December 1907, for the constitution of a Central American Court of Justice. **Repeated international case-law, see, for example, the judgement of 13 September 1928, of the Permanent Court of International Justice, in the dispute between Poland and Germany, recognized for the individual the right to act before the international arbitral courts.** International praxis has recognized for the individual the power to present international appeals, such as information or petition. Through the information, the person reports to an international organ the existence of a determined fact or situation. Through the petition, the person starts a determined action by the international organ. And from this emerges, logically, a procedure in which a private person tends to take a legal position which is opposed to another subject of International Law. Through the international appeal, in the proper sense, the individual acts in the capacity of holder of an international subjective legal situation and takes a position as party in the relevant procedure. The development of international praxis has agreed with doctrine that a merely negative solution of the problem of the international legal personality of the individual would not have been able to go on being sustained. Without any doubt, the individual, as well as becoming the holder of powers and rights in the ambit of institutional international bodies, assumes an independent figure with respect to the body to which he belongs. And in this way, the individual gradually

22 Cf. *Théorie générale du droit international*, in Rec. Cours de La Haye, 1932, IV, pp. 141 et seq.

acquires an independently leading role in the international ordinance. In view of this development, by which the individual appears in close-up in a series of situations created for him by International Law, scholars in the matter have affirmed that the individual is a material subject of International Law when he acts, legitimately, for the body which he represents[23].

17. The Italian Constitutional Court, in judgement no. 193/1985, of 28 June 1985, in the trial of constitutionality of article 273 of the Criminal Code, in criminal proceedings in progress against Vittorio Maria Busà, accused of the crime typified in article 273 of the Criminal Code, in the promotion, constitution, organization and direction, in national territory and without Government authorization, of two associations of an international nature, one of them called "Parlamento Mondiale per la Sicurezza e la Pace" and the other a foreign section called "Confédération Européenne de l'Ordre Judiciaire", ruled that article 273 of the Criminal Code was unconstitutional and, consequently, so were article 274 of the Criminal Code and article 211 of Royal Decree no. 773, of 18 June 1931 (Redrafted text of the Legislation on Public Security), based on the fact that article 18 of the Constitution provides the right of free association and article 11 of the same Constitution sanctions that Italy "promotes and encourages organizations directed, among other things, to the objective of repudiating war... ...as a means of resolution of international disputes, and of affirming (to the point of limiting its sovereignty) an ordinance which ensures peace and justice among Nations". In consequence of the ruling of the Constitutional Court of 28 June 1985, subjects of International Law can operate freely in the Republic's territory, without the authorization of the Italian Government, provided they have adopted an ordinance which repudiates war as an instrument affronting the liberty of other peoples and as a means of resolution of international disputes, which ensures peace and justice among Nations and is declared neutral in perpetuity.

18. As well as the individual representing a subject of International Law, International Law has placed in the centre of its attention a second category of individuals, in

23 Cf. Sperduti, *L'individual nel diritto internazionale*, page 106.

relation with the protection of human rights. A large part of doctrine, such as Conforti, recognizes in the individual subjectivity proper to International Law and a dignity of his own in the ambit of the international ordinance. Thus, the individual is recognized to have the right to be subject of a legal relationship the purpose of which is the protection of human rights (subjective right) and the faculty of urging international jurisdictional proceedings in the case of violation of his rights (right of action). However, it must be pointed out that this is dealing with conventional rules, that is to say, rules which bind only the contracting States. In any case, the individual answers for his own penal actions. To that end there are international criminal courts constituted for the purpose of evaluating possible international standards of *jus cogens* directly for the account of a person. There is a certain resistance to the recognition of subjectivity to International Law for the individual, and this was already there in the aspects of active procedural legitimisation and of passive procedural legitimisation. And this in the sense that certain States show strong resistance to recognizing the individual's right to procedural guarantees and to delivering persons responsible for serious crimes to international justice.

19. Neutrality is the legal condition of the subject of International Law, taking no part in a war already started between subjects of International Law. Neutrality is maintained even in civil wars, provided that the insurgents have been recognized as the belligerent party. The Law of Neutrality does not constitute an organic set of rules, although it has been developed in parallel with the Law of Armed Conflict. This law is formed largely by rules of a customary nature since to a lesser degree it also has a specific source in international agreements.

20. Similar to the Holy See, the Patriarchates of the Orthodox and Eastern Churches are endowed with international legal personality. The title of Patriarch is the title of the bishop who heads an Autocephalous Church, that is to say, a church which has a Maximum Pontiff, head of the maximum priestly college. Among the orthodox patriarchs, the Patriarch of Constantinople traditionally occupies a special place, shown in the name of "Ecumenical Patriarch", that is, "common patriarch", from the Greek *oikomenein*, which means "*living together*". The eastern patriarchs exercise their

jurisdiction over all the faithful of their rite. The post, the diocese and the group of dioceses subject to the authority of the same patriarch are called, collectively the "patriarchate", classifying as "patriarchal" the diocese and church which form the seat of the patriarchate and the patriarch. As is already known, a community question was raised over the relevance of religious organizations in the ordinance of the European Union, raised on the occasion of the Amsterdam Intergovernmental Conference (16-17 June 1997). With a view to this conference it was proposed to include a specific article on the Churches, which would have to fix the supreme principle, in religious matters, of the maintenance of the *status quo* by referring to the constitutional ordinance of each member State and the consequent freezing of community influence over international ecclesiastical rights. In the European Community, in a memorandum of June 1995 on the "legal status of the Churches and religious communities in the convention provisions of the European Union" an article was introduced which sought to safeguard the condition reserved for them in their internal legislations: "The Community respects the constitutional status that the religious communities enjoy in the member States, as expression of the identity of the member States and their culture, and as expression of the shared cultural heritage". Article 236 of the Treaty of Amsterdam, of 4 March 1996, says: "The European Community respects the legal regime proper to the Churches and other religious Communities of the member States and the specificities of their internal structures". Declaration number 11 of that treaty affirms that "the European Union respects and does not prejudge the status envisaged in national legislations for Churches and religious associations or communities of the member States. The European Union also respects the status of philosophical and non-confessional organizations". The "Treaty establishing a Constitution for Europe", approved by the Council of Europe in Brussels on 18 June 2004 and signed in Rome, in the Hall of the Horatii and Curiatii, on 29 October 2004, by the Heads of State and Government and Ministers of Foreign Affairs of twenty-five European States, made constitutional declaration number 11, as follows: "The Union will respect and will not prejudge the status recognized in the member States, in virtue of national law, for churches and religious associations and communities. The Union will also respect the

status recognized, in virtue of national law, for philosophical and non-confessional organizations. Recognizing their identity and their specific contribution, the Union will maintain an open, transparent and regular dialogue with these churches and organizations" (art. I-52.3 TC). G. Robbers, in "Europa religione: la dichiarazione sullo status delle Chiese e delle organizzazioni non confessionali nell'atto finale del Trattato di Amsterdam, in Quad. dir. pol. eccl., 2, 1998, pp. 393 et seq.", and S. Marcus – Helmons, in "Les églises et la construction européenne, op. cit, pp. 219-220", argue in favour of the full legal effectiveness of the rule, the latter referring it to the category of unilateral acts which are the source of International Public Law. M. Faggioli, in "Le Chiese e i nuovi confini d' Europa", in Il Mulino, 2, 2004, pp. 331-340, sustains the need to supersede the phase of bilateral concordats (State – Churches), which leaves space for a new concordat praxis of "coexistence agreements" between Churches in the multicultural and multi-confessional Europe. From that moment, the religious organizations have reinforced their presence in the seats of the Community public authorities (Parliament, Council of Europe and Commission), offering themselves as "privileged spokesmen" in the construction of the "new Europe". Thus, it can be affirmed that, in virtue of the Treaty of Amsterdam of 29 October 2004, the subjectivity to International Law of the Churches and philosophical and non-confessional organizations has been constitutionalised at European Union level. The Holy See and the Orthodox Churches have true diplomatic services, which they send to other churches or to other civil government structures. As an example, we could mention the *Ecumenical Charter*, signed in Strasbourg on 22 April 2001, at the end of the ecumenical meeting of Christian Churches with the top Community authorities. Following the same line, the Commission of Episcopal Conferences of the European Community, formed by bishops delegated by the National Episcopal Conferences of the European Union countries, presented a declaration in the Council of the Laeken European Council of 14 and 15 December 2001. For this reason, and in being presided over by a Maximum Pontiff, they have subjectivity to International Law. In contrast, the patriarchs who depend on the Pope are not subjects of International Law, since the classification of Maximum Pontiff falls on that figure.

C) "The first subdivision of the Roman Empire, into western and eastern parts, each of them subject to the authority of one of the co-reigning emperors, goes back to the tetrarchic reform of Diocletian of 293. The Western Roman Emperors have been, in time, the following: Augustus, 27 BC. – 14. AC.; Tiberius, 14 – 37; Caligula, 37 – 41; Claudius, 41 – 54; Nero, 54 – 68; Galba, 68 – 69; Otho, 69; Vitellius, 69; Vespasian, 69 – 79; Titus, 79 – 81; Domitian, 81 – 96; Nerva, 96 – 98; Trajan, 98 – 117; Hadrian, 117 – 138; Antoninus Pius, 138 – 161; Marcus Aurelius, 161 – 180; Comodus, 180 – 192; Pertinax, 193; Didius Julianus, 193; Septimius Severus, 193 – 211; Caracalla, 198 – 217; Geta, 209 – 212; Macrinus, 217 – 218; Elagabalus, 218 – 222; Severus Alexander, 222 – 235; Maximus the Thracian, 235 – 238; Gordian I, Gordian II, Pupianus and Balbinus, 238; Gordian, III 238 – 244; Philip the Arab, 244 – 249; Decius, 249 – 251; Treborianus Gallus, 251 – 253; Aemilianus, 253; Valerian, 253 – 260; Galienus, 253 – 268; Postumus, 260 – 268; Lelianus, 268; Marius, 268; Vitorinus, 268 – 270; Tetricus, 270 – 274; Claudius II, 268 – 270; Aurelian, 270 – 275; Tácitus, 275 – 276; Probus, 276 – 282; Carus (with his sons Carinus and Numerianus), 282 – 285; Diocletian, 284 – 305; Maximian, 286 – 305; Constantius I Clorus, 305 – 306; Galerius, 305 – 311; Severus, 306 – 307; Maxentius, 306 – 312; Maximin, 308 – 313; Constantine the Great, 306 – 337; Licinius, 308 abdicated 323; Constantine II, 337 – 340; Constantius, 337 – 350; Constantius II, 337 – 361; Magnencius, 350 – 353; Julian, the Apostate, 360 – 363; Jovian, 363 – 364; Valentinian I, 364 – 375; Valente, 364 – 378; Gratian, 367 – 383; Valentinian II, 375 – 392; Theodosius, 379 – 395; Honorius, 395 – 423; Joannes, 423 – 425; Valentinian III, 425 – 455; Petronius Maximus, 455; Avitus, 455 – 456; Mayorian, 457 – 461; Libius Severus, 461 – 465; Anthemius, 467 – 472; Olybrius, 472; Glycerius, 473 – 474; Julius Nepos, 474 – 475; Romulus Augustus, 475 – 476. The chronological coincidence of the emperors, from Diocletian to Theodosius, indicates that the holders of imperial authority jointly enjoyed the status of Augustus. Later, some events marked the progressive formation of an empire which could be defined as Byzantine and thereby, on some occasions, the following imperial personalities were considered as "first Byzantine emperor": a) Constantine I (306 –

337), was the first Christian emperor, who moved the capital to Constantinople; b) Valente (364 – 378), who was killed at the battle of Adrianopolis; c) Arcadius (395 – 408), was the first emperor of the eastern part, firmly separated from the western; d) Zenon (471 – 491), under whose reign the last Western Emperor, Romulus Augustus, was deposed; e) Heraclius I (610 – 641), who introduced Greek as the official language of the Empire. The Byzantines continued to consider their empire as Roman for more than a thousand years. In general, historians usually consider the reign of the Emperor Arcadius, and the reigns of his immediate successors, as the time when a new eastern Roman identity took shape, which later became separate as the Latin West took form. This was also the time of the first wave of the great invasions by the Germanic peoples, who overran the limits of the Rhine and invaded the provinces of Gaul and Hispania, penetrating into Italy itself. The date of the death of Theodosius I, 395, and the later sharing of the empire between his two sons, Arcadius and Honorius, is generally considered as the time marking the start of the chronology of Byzantine emperors. The emperor Arcadius was the start of the Theodosian dynasty (395-457). The end of the Byzantine empire coincides, in 1453, with the conquest of Constantinople by the Ottoman Turks. Caesar Octavianus, who bore the title of Augustus, was the founder of the imperial institution. The title of emperor, which in its origin only meant "commander in chief", seemed to the Romans more acceptable than that of king. The emperor Constantine, before the battle of the Milvian Bridge (312 AD), having seen, according to the version given to us by the historian Eusebius, a vision of angels around a cross with the inscription "In hoc signo vinces" (With this sign you will conquer), ordered that the divine sign of the Cross be raised on a military standard. Constantine, with the Christian sign on his flag, achieved four victories in a line over the army of his rival, Maxentius (312 AD). This military symbol was represented as a long pike (a long lance with an iron point used at that time as an infantry weapon) adorned with gold, with a piece of wood across it. A gold crown covered with precious stones appeared impaled on the upper part of the pike, and in the centre was the monogram of Jesus Christ, formed by two Greek letters, X and P, the one superimposed on the other. From the two arms hung a purple flag with gold trimmings.

Constantine entrusted this beautiful standard to fifty valiant soldiers who were to defend it with their lives. With this step he founded the glorious Constantinian militia and those intrepid soldiers were called "*Constantine Angelic Golden Knights of the Cross*". They were called "Angelic" in memory of the angels who appeared to Constantine on the day of the battle of Milvian Bridge; "Golden", for the cincture of gold that they wore; "Constantinian", for the name of their August Founder; and also "Georgian", for the name of St. George, the soldier knight who was martyred in the city of Lidda, in Palestine, in 1303. *"COSTANTINUS MAGNUS IMPERATOR - POSTQUAM MUNDATUR A LEPRA PER MEDIUM BAPTISMATIS - MILITES SIVE EQUITES DEAUREATOS CREAT - IN TUTELAM CHRISTIANI NOMINIS" (Constantine the Great, Emperor – having been purified from sin by baptism in water, created the body of soldiers called the Golden Knights, for the defence of the Christian name)*. Theodosius, in his codex, (Book. 6, Tit. 25: de praepositis Labaro) confirms the creation of this militia. A similar confirmation is found also in the Justinian codex (Book 12, Tit. 18: de praepositis Labaro). Also Eusebius, in his works on the History of the Church and the Life of Constantine, tells of the miracle of the cross and confirms the Constantinian origin of the militia. Later, this origin was confirmed again by the pontiffs, through apostolic letters, bulls and privileges. The first rule was written, in ten chapters, by St Basil, bishop of Caesarea, and approved by Pope Leo. Constantine, although not baptized until 337, was firmly in favour of the religion which had given him victory in Verona, at the Milvian Bridge and close to the gates of Rome. With the Edict of Milan (313), the Emperor Constantine made the Christian religion the official religion of the Empire. The Christians had passed the test, survived persecution and had managed to reorganise themselves. The adoption of Christianity as the official religion of the Empire gave an important stimulus to the development of the Christian community. Many of those who professed the old faith, passing from paganism to Christianity, did not have the impression of entering into a strange atmosphere, nor did they suffer an unexpected transformation. The conversion process was slow and accompanied by infinite shades of feeling and experience. The idea which inspired Constantine was unity and although he took no personal part in the theological debates,

he found himself, for political considerations, obliged to call and preside over ecclesiastical councils and to influence the formation of Christian dogma. The overthrow of the donatists, who were a sect of African heretics, in the Western Council of Arles (314), and the arians (*who sustained that Jesus Christ was not of the same nature as the Father, but a man invested with a special mission*) in the Ecumenical Council of Nicea (325), evidences the new link existing between the Catholic Church and Constantine's Roman State, destined to have a profound influence on the fate of all Christian peoples. Constantine is considered as one of the greatest benefactors of Humanity, through having converted the Roman Empire to Christianity. As with Romulus and Alexander, he constructed a capital which was, at the same time, Christian, Latin, a sentinel of the West and enemy of the barbarous tribes of the Danube and the oriental monarchies to the east of the Euphrates. He believed that, by defending the Balkans, he could save the Empire. Diocletian had already understood the strategic need for a capital close to the frontier between Asia and Europe. Guided by a firm instinct, Constantine, after defeating his rival Licinius at Chrysopolis, chose Byzantium, the city best protected by nature and by art. Constantine believed that it was easier to build a Christian capital on the Bosporus than in a great centre of historic paganism, such as Rome, but he could not foresee that Greek would end up by being imposed in Constantinople. Constantinople emerged in a flash. Rapidly they built palaces and houses, porticos, courts and public baths. On 11 May 330 the works were finished. The new Rome had been built in less than six years. The founding of Constantinople marked the start of a new era in which the Roman and Greek worlds were progressively moving apart until the unity of the Empire was no more than a theory and a hope. The Roman government, in the form given by Diocletian and Constantine, survived until the sack of Constantinople in 1204. In the East, the Church was subject to the State, in the West, under the direction of the Bishop of Rome, the Church sought to be an independent authority and above the State. Due to the works of Constantine, the Western Church, during the period of the Eastern Roman Empire and the inaction of the Western Empire, superseded the decadence of the times as heir to the legal regime and power of Rome. Isaac II Angelo, founder in 1185 of the imperial

dynasty of the Angeli, successor to Andronikos I, of the Komnenos dynasty, was dethroned on 8 April 1195 by his brother Alexios, who ordered him to be blinded and imprisoned, taking the throne as Alexius III. While Isaac remained a prisoner in Byzantium, his son Alexios took refuge in the West, in 1201, where he made a series of agreements with Venetians and crusaders. This was the time when the army of the 4th crusade was gathered in Venice. The Doge, Dandolo, ordered the expedition he had prepared to liberate the Holy Land to turn towards Constantinople. When the Latin army came under the walls of Constantinople, in June 1203, Alexios III, on the night of 17 to 18 June, tried ineffectually to resist the siege. Enrico Dandolo, heading the Latin army, took Constantinople and restored Isaac II to the throne, at the petition of the people. The emperor Alexios III fled to Thrace. In August Isaac bound his son to the throne under the name of Alexios IV. On the night of 7 to 8 February 1204, Alexios Doukas defeated Alexios IV and had him killed. That same night Isaac also died, leaving the field free to Alexios Doukas, who was crowned as emperor with the dynastic name of Alexios V. While Constantinople was under siege in the crusade of 1204, Alexios V of Byzantium, realising that it was impossible to resist, ended his reign on 12 April 1204 and fled to Thrace. It was at this time that the nobles elected Constantine XI Lascaris as Byzantine Emperor. The coronation took place on the same 12 April in the Basilica of Santa Sophia, in the presence of the Patriarch of Constantinople. When Constantinople fell, Constantine XI escaped to Asia Minor to found the empire of Nicea. Constantine XI died soon after, suffering from a serious illness. He was succeeded by his brother, Theodorus I of Byzantium. Theodorus I Lascaris, distantly related to Alexios Angeli, restored the Byzantine Empire of Nicea and, in 1208, was crowned emperor of Nicea. After his death he was succeeded on the throne by John III Doukas Vatatzes, who formed an alliance with Frederic II, Emperor of the Holy Roman Empire, marrying his daughter, Constanza of Hohenstaufen. He died at the age of 62, on 3 November 1254. He was succeeded by Theodorus II Lascaris. Theodorus II Doukas Lascaris was a son of John III Doukas Vatatzes (from whom he took the first surname) and Irene Lascaris (from whom he took his second surname). Theodorus II fought victoriously against the Bulgarians in Thrace from 1255

to 1256, conquering Albanian and Macedonian lands and Durres, Michael II of Epirus, despot of Epirus. He died on 18 August 1258, at the age of thirty-six years, and on the brink of death he chose his friend George Mouzalon as regent of his son John IV Doukas Lascaris. Nine days after the death of Theodorus, during a religious ceremony in Magnesia, George Mouzalon was killed by order of Michael Palaeologus, with all his family. After the disappearance of the *protovestiarios* George Mouzalon, Michael Palaeologus ascended the throne on 1 January 1259. Two years later, on 25 December 1261, he had John IV blinded and imprisoned and had himself appointed Emperor of the Romans by Patriarch Anthemius. Ex-emperor John IV became a monk and took the name of Josaphat. He died about 1300. In 1261 Michael VIII Palaeologo re-conquered the old capital of the Latin empire and transformed the Empire of Nicea into a new Byzantine empire. Michael was the son of Andronikos Palaeologo and Theodora Palaeologo, his wife. Carmelo Arnone, a distinguished Italian expert in heraldry, wrote in 1947 in the Magazine of the Rome Heraldic College, on pages 391 and 392, that: *"Stefan Nemanja, first king of Serbia, by his marriage (1185) to Princess Eudoxia Angeli Komnenos, daughter and heiress of the emperor Alexios III (1195-1203), became heir to the Byzantine empire and united in his dynasty all the rights of the Doukas, Angeli and Komnenos as the family estate or mastership of the Constantinian Militia (1214). A sister of that Eudoxia was Ana, who in 1200 married Theodorus I Lascaris, son-in-law of Alexios III Angeli, Emperor of the East in sole title (1204) and later Emperor of the Nicean Greeks in Asia (1206-1222). Their daughter was Irene, who married John III Doukas Vatatzes, emperor of Nicea in the period between 1222 and 1254. Their son was Theodorus II Doukas Lascaris, Emperor of Nicea (1254-1258). His third daughter was Maria Doukas Lascaris, sister of John IV, Emperor of Nicea (1258-1259), and Eudoxia, who married Count William Peter of Ventimiglia (+ 1285). Maria married (1256) Nicephorus Angeli Komneno Doukas, and they had a daughter, Maria, who married John I Orsini, and in 1295 received the island of Leucadia as dowry. They had several children, among them John the Apostolic, from whom descended the dukes of Leucadia, and John II Orsini, called Angelo, who married in his turn Anna Angeli Komneno Palaeologa, despot of Epirus (1335-1339).*

Thomasa, their daughter, married around 1350 Simon Orosio Nemanja Palaeologo, who became Emperor of the Serbs and Romans in 1359 and died in 1371, brother and heir of Stefan Dusciano, Eastern Emperor, who restored the Nemanja Constantinian Militia under the name of the St Stefan's Column (1346). His son, John Orosio Nemanja, last effective emperor of that House, ratified that militia and married Elena Palaeologo Asan Komneno, sister and heir of John VII, Emperor Pretender of Constantinople, and daughter of Andronikus IV Palaeologo, Emperor of Constantinople. From their firstborn, Marcus Michael Nemanja Palaeologo, who became claimant to the Eastern Crown through his mother, came the bastard son Andrea, called Angelo, already dead by 1375, from whom descended, among others, Cardinal Paul Angelo and his brother Peter, from whom would descend the Angelo Komneno, Grand Masters of the Constinian Order of St. George. Another son of John Orosio Nemanja was Theodorus Orosio, surname Palaeologo, Prince of Kaponik (1408-1450), who through the renunciation of his brother Marcos, who had become the claimant to the throne, became Grand Master of the Constantinian Militia, recognized as such by his relative Manuel II Palaeologo, Emperor of Constantinople, who died in 1425. The genealogical links through the female line continued between Nicholas Kaponik and Alexius III Angelo Komneno, Eastern Roman Emperor, Theodorus I Lascaris, John III Doukas Vatatzes, Theodorus II Doukas Lascaris, Emperor of Nicea, Andronikus IV Palaeologo, Emperor of Constantinople, through Eudoxia and Anna Angelo Komneno, Irene Lascaris, Maria Doukas Lascaris, Anna Angelo Komneno Palaeologa, Thomasa Orsini, Elena Palaeologo Asan Comneno."

However, it has to be pointed out that Prince Nicholas Kaponik, who died en 1948, was the last descendant of Theodorus Orosio Palaeologo. The genealogical tree of Marciano II includes also the descendants of Eudoxia, wife of Count William Peter, first Prince of the Sovereign County of Ventimiglia, of the Lorena-Villafranca branch. This branch was extinguished with the death of Marciano II. In this party's preparation of the genealogy of Marciano II, reference is made to: a) the Genealogical History of the Imperial House of Lascaris, a document which was incorporated into the register of the notary of Alcamo, Vincenzo Giacalone, on 3 August 2004; b) judgement no. 5143

bis, given by the Court of 1st Instance of Rome, Section VII, on 10 September 1948; c) judgement no. 114, given by the Court of First Instance of Vico del Gargano on 27 June 1949, in criminal proceedings no. 217/1949 of the General Registry, both with the force of a matter judged; d) judgement of the Supreme Court of Cassation, United Sections, with General Registry number 7642/63, of 3 February 1964, no. 789/64, R.G. no. 4567/63, which established that on Marziano Giuseppe Pius Maria Francesco Lavarello, born in Rome on 17 March 1921, there fell legitimately the name of Marciano II Lavarello Lascari Palaeologo Basileo of Constantinople-Serbia, in his position as legitimate successor, after 27 January 1948, of Nicholas Nematic' Pelaiologos Oursinos Angelos Komnenos, the last descendant, from 3 April 1943, of the paternal line of Lavarello - del Bosco - Ceva - Buonaparte – Clavesano, and in his position as beneficiary of the pre-eminence of primogeniture among all the family lines and with absolute and incontestable precedence over any other pre-constituted family link in the line of Anselmo di Monferrato, of the lineage of the Marquises del Bosco. Thus the branch of Eudoxia, daughter of John III Doukas Vatatzes (1222-1254) and wife of William Peter of Ventimiglia, ended with the death of Marciano II, in 1992. In the same way, the branch of Theodorus Orosio Palaeologo, Prince of Kaponik or Caponico (1408-1450), ended in 1948, with the death of Nicholas Nematic' Pelaiologos Oursinos Angelos Komnenos. Investigation into the title relating to Prince Marciano II of Grand Master of the Imperial Constantinian Angelica Order of the Golden Militia of the East is more complex. The date of constitution of the Constantinian Order cannot be given precisely, to the point that it has been cleverly compared with a triptych, which would show three faces of the Order. The old face is based on legends and traditions which, however, lack documentary evidence; the middle face is based, in one of its branches, on false documentation relating to the old face, a work of the Angelo-Komneno, and began in 1553, under Pope Callixtus III, when he ordered the transcription into the Roman Curia of the ancient documentation altered, and the Order had a religious, military and family character and was put under the protection of the Holy See. The third face starts from 1705, with the Duke of Parma and Piacenza, Francesco Farnese, who formed the Constantinian Order ex novo on the

basis of tradition and of the Angelo-Komneno, to continue later with the Bourbons of Naples. There have been other branches of the Order, of which sufficient light has not yet been shed on their history, in view of the total lack of publication of documents, and of which there are already indications in the diploma of the Emperor of Constantinople, Constantine Palaeologo, of 17 July 1450, who invoked that of his father, Manuel, of 1415, and another document of Michael the Great, who was emperor from 1260 to 1282, considered as the restorer of the Golden Militia. In that diploma of 1450 the Sovereign establishes the assignment of the Grand Mastership of the Roman East to his nephew Manuel Peter, son of his brother Theodoro, and succession in the post, for the case of the inexistence of legitimate heirs, for the descendants of that brother Theodoro, even in favour of the same generation or forthcoming generations. Thus, it is unquestionable that the Order of the Golden Militia was considered as a Family Order of the Palaeologos and, consequently, separate from the Imperial Crown. To be able to draw a simple sketch of the history of the Constantinian Order as a whole, one has to start from the events caused by the fall of the Eastern Roman Empire. The Latin empire of Constantinople of the Franks, which ended in 1261, re-emerged as the Byzantine Empire with the Palaeologos; the despotate, after 1206 the Greek dominion of Nicea, with the Lascaris, Doukas-Laskaris, which ended in 1260 and re-emerged as the Byzantine Empire of Constantinople with the Palaeologos after 1261, ended in 1453 with the Turkish occupation; the despotate of Epirus (southern Albania and the Ionic islands), after 1204 with the Angelo-Komneno, the Orsini, the Tocco, and later united with the Byzantine Empire in 1358; the despotate of Trebizond of 1204, with the Komneno, which later became the Greek empire of Trebizond after 1280, was ended in 1462, by the works of the Turkish Mehmet II, who incorporated it into his domains. This to-ing and fro-ing, in less than three centuries, of despotates and empires, brought with it an approximation of reigning families, with the corresponding repercussions on the Constantinian Order, that each of these emperors understood it as an Order belonging to them and to their dynasties. The particular internal vicissitudes of the Byzantine empire meant that in the course of 1058 years it suffered sixty-five revolutions, with many other falls of sovereigns and usurpations by new emperors. The

lack of any law on succession to the throne, which meant that the reigning sovereigns tried to ensure the succession for their own descendants, binding them to the Crown in advance, or invoking a supposed law of Constantine the Great, which gave preference to children born in the palace of purple, for this reason called porphyrogenitus. According to another interpretation, the porphyrogenitus were children born "in the purple", that is, after one of their forebears had been named emperor. During this period there were the following dynasties of the Eastern Roman Empire: Theodosian dynasty: Arcadius, 395 – 408; Theodosius II, 408 – 450; Marcian, 450 – 457. Thracian dynasty: Leo I the Great, 457 – 474; Leo II, 474; Zeno, 474 – 491; Anastasius I, 491 – 518. Justinian dynasty: Justin I, 518 – 527; Justinian I, 527 – 565; Justin II, 565 – 578; Tiberius II, 578 – 582; Maurice, 582 – 602; Phocas, 602 – 610; Heraclian dynasty: Heraclius, 610-641; Constans II and Heraklonas, 641; Constantine III, called Constante II, 642-668; Constantine IV Pogonatos, 668-685; Justinian II Rinotmetos, 685-711; Leontios, usurper 695-698; Tiberius III, usurper 698-705; Phillipikos, 711-713; Anastasius II, 713-716; Theodosius III, 716-717. Isaurian dynasty: Leo III Isauricus, 717-740; Constantine V Copronimo, 740-775; Leo IV, 775-780; Constantine VI, 780-797; Irene, 797-802; Nikephoros I, 802-811; Staurakios, 811; Michael I Rangabe, 811-813; Leo V the Armenian, 813-820. Phrygian dynasty: Michael II, 820-829; Theophilos, 829-842; Michael III, 842-867; Macedonian dynasty (Armenia) Basil I Macedonian, 867 – 886; Leo VI the Philosopher, 886-912; Constantine VII Porphyrogen, 912-959; Alexander, regent, 912-913; Romano I Lekapenos, co-regent, 919-944; Romano II, 959-963; Basil II Bulgar-slayer , 963-1025; Nikephoros II Phokas, co-regent, 963-969; John I Tzimisks, usurper, 969-976; Constantine VIII, 1025-1028; Zoe, 1028-1050. Associated with the throne: Romano III Argyros, first husband, 1028-1034; Michael IV, second husband, 1034-1041; Michael V, the Caulker, adopted son, 1041-1042; Constantine IX Monomachos, third husband, 1042-1054; Theodora, Zoe's sister, 1054-1056; Michael VI, appointed by Theodora, 1056-1057; Isaac I Komnenos, 1057-1059; Constantine X Doukas, 1059-1067; Romanos IV Diogenes, 1067-1071; Michael VII, 1071-1078; Nikephoros III Botaneiates, 1078-1081; Dynasty of the Komnenos: Alexios I Komnenos, 1081-1118; John II, 1118-

1143; Manuel I, 1143-1180; Alexios II, 1180-1183; Andronikos I, 1183-1185. Angelid dynasty: Isaac II Angelos, 1185-1195; Alexios III Angelos, 1195-1203; Isaac II, for the second time, and Alexios IV, 1203-1204; Alexios V Mourtzouphlos, anti-emperor, 1204. Latin emperors of Constantinople: Baldwin, Count of Flanders, 1204-1205; Henry of Flanders, 1205-1216; Peter of Courtenay and Yolanda of Flanders, 1216-1219; Robert of Courtenay, 1219-1228; Baldwin II, 1228-1261; John of Brienne, associated with the government, 1229-1237; Emperors of Nicea: Theodorus I Lascaris, 1206-1222; John III Vatatzes, 1222 - 1254; Theodorus II Lascaris, 1254-1258; John IV Lascaris, 1258-1259; Michael VIII Palaeologos, usurper, 1259-1261; Dynasty of the Palaeologos: Michael VIII Palaeologos, 1261-1282; Andronikos II, 1282-1328; Andronikos III, 1328-1341; John V, 1341-1376; John VI Kantakouzenos, co-regent, 1341-1355; Andronikos IV, 1376-1379; John V, for the second time, 1379-1391; John VII Palaeologos, anti-emperor, 1390; Manuel II, 1391-1425; John VIII, 1425-1448; Constantine XI, 1448-1453. In just three cases (Irene, 797-802; Zoe, 1028-1050 and Theodora, Zoe's sister, 1054-1056) the throne passed to women. The system used by the usurping emperors to legitimise the usurpation through marriages or adoptions with members of the dethroned dynasties, or by consecration obtained from the Greek patriarch with holy oil, made it difficult, not to say impossible, to establish the legitimacy of the descendants of the emperors of the different dynasties. And to this is added that there were religious reasons which induced the pontiffs to recognize as the true claimant to the throne of Constantinople whoever among them could offer a greater contribution to the fight against the Turks and had shown a respect for the Catholic religion, excluding those pretenders who had the intention of preserving the dogma of the Greek Church. All this explains how various were the families who were declared descendants of Byzantine emperors and how from among them the preference in Italy went to the Angelo-Komnenos family, with their profound Catholic faith, who gave the church Cardinal Paul, born around 1415, son of Andrea, called Angelo, bastard son of Marcus Michael Nemanja the Palaeologos. When new states were formed, successors of the Eastern Roman Empire, the sovereigns considered themselves very specially as continuing the old empire and understood that they took

with them the Grand Mastership of the Constantinian Order, so that for their descendants, the claim to the throne of Constantinople included the claim to be Grand Master, so that different branches were formed which achieved greater or lesser success and diffusion by reason of the ups and downs of history, aside from their greater or lesser effective legitimacy. In some branches, there are even several claiming families, such as, for example, the case of the Epirotus, as well the Angeles-Komnenos, the Angeles of Venice, the Orsini Doukas of Leucadia, the Princes Caracciolo of Avellino, the Nemanja Palaeologos of Kaponic, the Castriota Scanderberg of Albania. It is believed that the last emperor Constantine Palaeologos was linked to the Komneno-Palaeologos line of the dukes of Gozia, Schmidt von der Launitz; the emperor, of single title, Theodorus VI Palaeologos, was linked to the Rhodicanakis branch of Khios (Greece). The Nicean branch was linked with various branches of the Palaeologos, who were established in France, England, Italy and Romania. The members of the Doukas Lascaris branch were divided between France, Poland and Italy. The branch of the Komnenos of Trebizond claimed to be linked with the Stefanopolis-Komnenos. But, in most cases, these families which sought to claim succession to the Byzantine emperors and the Constantinian Grand Mastership were linked through female succession, accompanied on occasions by other female succession in the intermediate genealogical links. And all these branches explain the various names that were given to the Order: Sacred Imperial Angeli Constantinian Order of Saint George, first, and later, Sacred Military Constantinian Order of Saint George, in the Epirote Angeli-Comneno-Farnese-Borbón branch; Sacred Constantinian Nemanjic Order of St. Stephen, in the case of the Nemanja-Palaeologo Kaponic branch; the Imperial Constantinian Angeli Order of the Golden Militia of the East, in the case of the Doukas-Lascaris-Lavarello branch; Imperial Constantinian Order of Saint George, in the case of the Palaeologos-Rhodocanakis branch; the ancient Imperial Constantinian Order of Saint George, in the case of the Palaiologos - Schmidt von der Launitz branch. Which of these branches can be called legitimate is a question to which there is no answer, insofar as it is difficult to achieve genuine genealogical evidence. In the absence of such evidence, the problem has been partially resolved

through the work of authors of a certain historical level. As has already been said, the various branches of pretenders to the legitimate succession in the Grand Mastership of the Constantinian Order of Saint George based their claims on the female succession. These branches present a common genealogy in a certain number of Grand Masters and then each of them was differentiated by having its own genealogy. It goes without saying that the legitimacy of the Farnese-Bourbon branch, in relation with the Constantinian Order, is incontestable from 1705 onwards, that is to say, from the time when the Duke of Parma and Piacenza, Francesco Farnese, constituted the Order ex novo, on the basis of the traditions and history of the Angeles-Komnenos. The current claimants to the position of Grand Master of the Constantinian Order of Saint George have each produced, with respect to their own branches, the genealogical links between them and the descendants of the Byzantine Emperor Grand Masters. We omit the genealogical links of the Nemanja-Palaeologo-Kaponic branch because it came to an end in 1948, with the death of Prince Nicholas. We also omit the reconstruction of the Komneno-Palaeologo branch of the dukes of Gozia Schmidt von der Launitz because this branch was ended with the death, after 1940, of the Prince. With regard to the Palaeologo-Rhodocanakis branch, Prince Demetrio Rhodocanakis of Khios (Greece) married, in 1614, Princess Theodora Palaeologo, only child and heiress of Theodorus Palaeologos VI, Emperor in sole title of the Byzantine Empire. From this marriage descends, in the straight male line, Demetrius of John, Grand Master of the Imperial Constantinian Order of Saint George. The genealogical link extends from the aforesaid Theodora Palaeologos to Thomas I Doukas Angelo Komneno Palaeologo, who succeeded the last Emperor of Constantinople, Constantine XII Dragazes (+ 1453). As has already been pointed out, and as can be understood from the genealogies referred to above, in accordance with Carmelo Arnone, Italian heraldry expert of recognized standing in the first half of the last century, there are a series of difficult problems needing resolution to be able to give a balanced judgement, always independent of the control of authenticity of the genealogies in question. William Peter, of the Doukas-Lascaris-Ventimiglia-Lavarello branch, Count of Ventimiglia, who died in 1285, was married to Eudoxia, daughter of Theodorus II Doukas Lascaris, Emperor of the Greeks

of Nicea in (1254-1259) and Elena Asan, sister of the Bulgarian Tsars Kaliman and Michael. Eudoxia Doukas Lascaris was the sister of Maria, to whom, together with their father and their forebears, reference is made by the Nemanja-Palaeologo-Kaponic branch. Philippino, Count of Ventimiglia, who is also called prince in the documents, was the father of Matthew, who appears noted as the first Grand Master of the Constantinian Order and XXV in the series of Grand Masters successors of Theodorus II. Battista (1388-1455) said of him that he had a son called Battista II the Pinolo, of the ancient fief of the city of Pina, or Lavarello, also known by his surname of Don Francisco, marquis of La Varella and lord of Seville. The descendants of Battista II began to be known by the surname of De Lavarello, and Giovanni Battista Agostino III, recorded in the book of Genoan aristocracy, was the father of Filippo Maria. He married first (1582) Gabriella, daughter of the marquis of Urfè, Giacomo Palliard, and Renata de Saboya Lascaris Ventimiglia, marchioness of Baugè, niece of Claudio of Savoy (1507-1566) and Anna Lascaris, Countess of Tenda. Claudio was in turn the father of Renato of Savoy (1468-1525), known as "the great bastard", head of the Savoy -Tenda-Villar branch, first son of Duke Philip of Savoy "landless" (1443-1497), later legitimised and declared able to succeed in the States of Savoy. Anna Lascaris (1487-1555) was the daughter of Giovanni Antonio, Count of Tenda and Ventimiglia, who had acquired the surname Lascaris through being related to the aforesaid Eudoxia, daughter of Theodorus Doukas Lascaris. The genealogical link of the Grand Master of the Angeli Imperial Constantinian Order of the Golden Militia of the East, Marcian II, was with Theodorus II Doukas Lascaris through Eudoxia, who married William Peter, Count of Ventimiglia, and through Maria Lavarello who married Gabriella Paillard d'Urfè, descendant of the aforesaid Anna Lascaris. Reserving, in this way, historical judgement as to which of the branches can be understood as the legitimate claimant to the throne of Constantinople and the Grand Mastership of the Order, the only thing we can do is abide by the jurisdictional truth, that is to say, judgements with the force of a matter judged given by the Civil Court of Naples on 28 May 1947, Judicial Minutes of 6 June 1947, in the case of Raffaele Tibaldi; of the Court of 1st Instance of Rome, of 10 September 1948, Section VII, no. 23828/48, General List 5143 and that of the

TIMBRE DEL ESTADO

0,03 EUROS

TRES CÉNTIMOS DE EURO

0M3283756

CLASE 8.ª

Supreme Court of Cassation, United Sections, of 3 February 1964, no. 789/64, General Registry 4567/63, which recognize as definitive the imperial origins of Marcian II. Accredited and important branches of the Knights of Saint George were the Imperial Constantinian Angelica Order of the Golden Militia of the East and the Imperial Constantinian Order of Cappadocia, of which Marciano II was Grand Master. From the above the following genealogical table of Marcian II Lavarello Lascari Palaeologos Basil of Constantinople-Serbia can be drawn:

JOSEP PEÑARROJA FA TRADUCTOR OFICIAL

CORTE EUROPEA DI GIUSTIZIA ARBITRALE TRIBUNALE CIVILE INTERNAZIONALE RAGUSA

TABLE 1
Alexios III Angelo
1195 - 1203

Anna
Married in 1200
Theodorus I Lascaris
Emperor of the East,
of single title (1204)
Emperor of Nicea (1206 - 1222)

Irene
Married
John III Doukas Vatatzes
Emperor of Nicea
(1222 - 1254)

Theodorus II Doukas Lascaris
Emperor of Nicea
(1254 - 1258)

John IV Lascaris
Emperor of Nicea
(1258 - 1259)

Eudoxia Angelo Komneno
Married
Stephen Nemanja
First King of Serbia
This branch continues in the female line with the descendants of Marcus or Michael Nemanja, called the Palaeologo.

Maria Doukas Lascaris
Married in 1256
Nicephorus Angeli
Komneno Doukas

See Table 2

Eudoxia
Daughter of Irene and
John III Doukas Vatatzes
Emperor of Nicea (1254 - 1258)
Married
Count William Peter de William
First Prince of the Sovereign County of Ventimiglia,
Lorerna de Villafranca branch
(died in 1285)

John
Born around 1270

See Table 1/a

TABLE 1/a

John

William Peter II
Died in 1385
Count of Ventimiglia
Married to Juana, Countess of Lucan

William Peter III
Count of Ventimiglia
(?)

William Peter IV
Count of Ventimiglia
(?)

Anthony
Married to Francisca de Pouillers - Centallo
(?)

Onorato
Married to Margarita del Carretto, Marchioness of Final
(?)

John Anthony
(? - 1509)
Married to Isabel de Saboudin d'Anglure, Baroness of Estoges

Anna
(?)
Married Renato of Savoy, eldest son of Philippo the Landless

Claudius
Duke of Savoy and King of Cyprus
(?)
Married
1: Maria of Cabannes
2: Francesca of Foix Candale (m. 1566)

See Table 1/b

Table 1/b

Renata
(?)
Married Giacomo, Marquis of Ufrè

Gabriella
(?)
Heir of the Imperial and Royal House of Lascaris – of Savoy
Married
Philippo Maria Lascaris - Ventimiglia - Lavarello (m. 1630)
Grand Master of the Constantinian Order

Giacomo or Jacopo, known as the Old
(?)
Married Piera Flavante, of Genoan nobility, (m. circa 1641)

Bartolomé
Married
Juana Pedralbez de Catalonia (m. 1690)

Andrea
Married
Maddalena Schiaffino
of Genoan nobility
(1674 - 1734)

Giovanni Battista
Married

TIMBRE DEL ESTADO

OM3283752

CLASE 8.ª

Caterina Schiaffino
of Genoan nobility
(1719 - 1768)

Andrea
Married
Giulia Canepa Fieschi
of Genoan nobility
(1751 - 1800)

See Table 1/c

Table 1/c

Giovanni Battista
Married
Teresa Bertolotto
of Genoan nobility

Prospero Godeardo
Married
Rosa Borzone
of Genoan nobility

Francisco
(m. 1920)
Married
Maria Teresa dall'Orso
of Genoan and Venetian nobility

Prospero Godeardo
(m. 1943)
Married
Nella Olga Cassanello Lupi
of the Lords of Cassan and Marquises of Soragna

Marciano II Lavarello Lascari Palaeologo Basileo of Constaninopolis - Serbia
Born in Rome on 17 March 1921
Died in Rome on 17 October 1992
Died single and without issue, legitimate or natural

TABLE 2
Maria Doukas Lascaris
See Table 1

Maria
Married
Juan I Orsini
In 1295, she received the island of Leucadia as her dowry

Guido the Apostolic
from whom descended the
dukes of Leucadia

John II Orsini, called Angelo
Married
Anna Angelo Komneno, called Palaeologo
Despot of Epirus (1335 - 1339)

Thomasa Orsini
Married c. 1350
Simone Orosio Nemanja Palaeologo (m. in 1371)
descendant of Stefan Nemanja
First King of Serbia
Emperor of the Serbs and Romanians in 1359
Brother and heir of Stefan Dusciano
Emperor of the East
Restorer of the Nemanja Constantinian Militia
with the name of St. Stephen's Column (1346)

John Orosio Nemanja
Born c. 1351
Married
Elena Palaeologo Asan Komneno
Sister and heiress of John VII,
Emperor pretender of Constantinople,
and daughter of Andronikos IV Palaeologo
Emperor of Constantinople (1376 - 1379)

See Table 3

TABLE 3

John Orosio Nemanja
See Table 2

Marcos or Michael Nemanja called the Palaeologo
Pretender to the Crown of the East through his mother
Born c. 1370

Andrea called Angelo
Born c. 1390
Died before 1475
Natural son of Marcos or Michael Nemanja, called Palaeologo
from whom descended, among others, Cardinal Paolo Angelo and his brother Pietro Angelo.

Theodorus Orosio Palaeologo
Prince of Kaponic or Caponico
(1408 - 1450)
Grand Master of the Constantinian Militia.

This branch died out in 1948 with the death of Prince Nicolas, last Grand Master of the Order of St. Stephen of the Column

The claims of Marciano II to the Kingdom of Cappadocia, or the Principality of Cappadocia, as it was called after the Roman conquest, are founded on his rights as a direct descendant of the Eastern Roman Emperor Alexios III Angelo (1195 - 1203), in accordance with the following genealogical tree, in the direct line:

TABLE 1

Alexios III Angelo
1195 – 1203

Anna
Married in 1200
Theodorus I Lascaris
Emperor of the East, of sole title (1204)
Emperor of Nicea (1206 - 1222)

Irene
Married
John III Doukas Vatatzes
Emperor of Nicea
(1222 - 1254)

Eudoxia
Daughter of Irene and
John III Doukas Vatatzes
Emperor of Nicea (1254 - 1258)
Married
Count William Peter of William
First Prince of the Sovereign County of Ventimiglia,
Lorerna of Villafranca branch
(Died in 1285)

John
Born c. 1270

William Peter II
Died in 1385
Count of Ventimiglia
Married Juana, Countess of Lucan

William Peter III
Count of Ventimiglia
(?)
|
See Table 2

TABLE 2

William Peter III
See Table 2
|
William Peter IV
Count of Ventimiglia
(?)
|
Anthony
Married Francesca of Pouillers - Centallo
(?)
|
Onorato
Married Margarita of Carretto, Marchioness of Final
(?)
|
John Anthony
(? - 1509)
Married Isabel of Saboudin d'Anglure, Baroness of Estoges
|
Ana
(?)
Married Renato of Savoy, eldest son of Philippo the Landless
|
Claudius
Duke of Savoy and King of Cyprus
(?)
Married
1: Maria of Cabannes
2: Francesca of Foix Candale (m. 1566)
|
Renata
(?)
Married Giacomo, Marquis of Ufrè
|

Gabriella
(?)
Heiress of the Imperial and Royal House of Lascari – of Savoy
Married
Philippo Maria Lascaris - Ventimiglia - Lavarello (m. 1630)
Grand Master of the Constantinian Order

See Table 3

TABLE 3

Gabriella
See Table 2

Giacomo or Jacopo, called the Old
(?)
Married Piera Flavante, of Genoan nobility, (m. circa 1641)

Bartolomé
Married
Juana Pedralbez of Catalonia (m. 1690)

Andrea
Married
Maddalena Schiaffino
of Genoan nobility
(1674 - 1734)

Giovanni Battista
Married
Caterina Schiaffino of Genoan nobility
(1719 - 1768)

Andrea
Married
Giulia Canepa Fieschi
of Genoan nobility
(1751 - 1800)

Giovanni Battista
Married
Teresa Bertolotto

TIMBRE DEL ESTADO

OM3283745

CLASE 8.ª

of Genoan nobility

Prospero Godeardo
Married
Rosa Borzone
of Genoan nobility

See Table 4

TABLE 4

Prospero Godeardo
See Table 3

Francisco
(m. 1920)
Married
Maria Teresa dall'Orso
of Genoan and Venetian nobility

Prospero Godeardo
(m. 1943)
Married
Nella Olga Cassanello Lupi
of the Lords of Cassan and the Marquises of Soragna

Marciano II Lavarello Lascari Palaeologo Basileo of Constaninopolis - Serbia
(1921 - 1992)
Born in Rome on 17 March 1921
Died in Rome on 17 October 1992
Died single and without issue, legitimate or natural

All the heads of the dynasties of the Eastern Roman Empire acquired, by pure prestige, the title of Prince of Cappadocia, in the same way as the heads of the more important sovereign houses of Europe (the Bourbons of Naples, the Savoy, the Hapsburgs of Tuscany) bore the sovereign title, purely honorary, of King of Jerusalem. Cappadocia was, before the Roman conquest, an independent kingdom. The list of the kings of Cappadocia is as follows: 1) Satraps of the Datame of Cappadocia, ca. 380-331 BC: a) Datame, ca. 380-362 BC; b) Ariamne, 362-350 BC; c) Ariarate I, 350-331 BC; 2) Kings of the Ariarate of Cappadocia, 331 BC - 17 AD; a) Ariarate I 331-322 BC; b)

Ariarate II 301-280 BC; c) Ariarate III 280-230 BC; d) Ariarate III 255-220 BC; e) Ariarate IV 220-163 BC; f) Ariarate V Philopator 163-130 BC; g) Oroferne 157 BC; h) Ariarate VI Epiphanes Philopator 130-116 BC; i) Ariarate VII Philometor 116-101 BC; l) Ariarate VIII 101-96 BC; m) Ariarate IX ca. 95 BC; n) Ariobarzane I Philoromano 95-ca. 63 BC; o) Ariobarzane II Philoromano ca. 63-51 BC; p) Ariobarzane III Eusebio Philoromano 51-42 BC; q) Ariarate X Eusebio Philadelfo 42-36 BC; r) Arquelao 36 BC - 17 AD. The kingdom of Cappadocia went through a period of intense flourishing from 300 to 100 BC. From 100 BC, with the end of the kingdom of Pergamon and the irruption of the Roman Empire into the eastern world, the kingdom of Cappadocia lost much of its former power, being conquered in 17-18 AD by the Roman emperor Tiberius. The kingdom of Cappadocia, in spite of having been weakened and now subjugated from the political viewpoint, used the broad deserts and powerful cavalry to fight the Romans. The Romans won the war and Cappadocia ceased to be an independent kingdom. The last king, Arquelao, was dethroned. In 17-18 AD Tiberius converted Cappadocia into a province. Emperor Tiberius entrusted the management of the province of Cappadocia to a prefect. Later, the emperor Claudius appointed as head of that province a *Procurator Augusti*. From 69-70 AD to 98 AD, Cappadocia was united with Galacia under the control of a *legatus Augusti pro praetore* with the rank of praetor. The principality of Cappadocia, instituted by the emperor Trajan, became a Roman province with some independence, governed by a *legatus Augusti pro praetore* with the rank of praetor. With the tetrarchical reform of the provincial organization, carried out by Diocletian at the end of the 3rd century, Cappadocia was divided into the provinces of Cappadocia, Ponto Polemoniaco and Armenia Menor, integrated into the Pontic Diocese. Later, Cappadocia was incorporated into the Prefecture of the Eastern Praetorium and in 395 it was divided again, this time into Cappadocia I and Cappadocia II. In the 1940s, Prince Marciano II, in his position as a direct descendant of Constantine the Great and Alessio III, of the Angeli dynasty, reconstituted the Grand Mastership of the Imperial Constantinian Order of Cappadocia, and conferred on the Grand Master of that Order the sovereign title of Prince of Cappadocia, in the capacity of claimant. After the death of the imperial prince Marciano II, in Rome, on 17

October 1992, the administration of the Imperial Constantinian Order of Cappadocia was under the charge, until 4 January 2007, of a Regency Council presided over by its members in rotation, in accordance with a regulation approved by the Council itself. On 5 January 2007, H.S.H. Prince Rafael Andújar y Vilches, born in Melilla, Spain, on the twentieth of December 1946, was appointed Grand Master of the aforesaid Imperial Order, with capacity to amend and promulgate the Order's new Statute."

D) The lawyer Vincenzo Giacalone, notary of Alcamo, gave testimony, on 6 July 2012, that, with effect from 5 January 2007, the titles, posts and heraldic arms which are described hereunder fell legitimately on H.S.H. Prince Rafael Andújar y Vilches, born in Melilla, Spain, on 20 December 1946, and resident at Calle Golf de Botnia, 8 - 08198 Sant Cugat del Vallès, Barcelona, Spain: a) the position of Grand Master of the Imperial Constantinian Order of Cappadocia of the dynasty of Marciano II Lavarello Lascari Palaeologo Basileo of Constantinople - Serbia, with seat in Calle Golf de Botnia, 8 - 08198 Sant Cugat del Vallès, Barcelona, Spain; b) the possession, as pretender, of the sovereign title of Prince of Cappadocia, with the courtesy of Serene Highness, this being a condition of the Grand Master of that Order; c) the possession, as Grand Master of that Order, of the sovereign title of Byzantine Patrician of the Eastern Holy Roman Empire; d) the possession, as Grand Master of that Order, of the imperial coat of arms of the Constantinian Order of Cappadocia, blazoned as follows: *"Gules, a lion outlined, crowned in the traditional style and wound about gules all of or, united to the two headed eagle of the Eastern Roman Empire. Surmounted by a crown of pretension to the Byzantine empire, with four jewelled lappets pendant; surrounded by the Grand Collar of the Constantinian Order of Cappadocia. Motto LASCARIS FIDELITAS."*; e) the possession, as Grand Master of the Imperial Constantinian Order of Cappadocia, of the dynasty of Marciano II Lavarello Lascari Palaeologo Basileo of Constantinople - Serbia, of the shield of the Prince of Cappadocia, blazoned as follows: *"Purple with the two-headed eagle of the Eastern and Western Roman Empire, crowned in the Byzantine style, resting its claws on the sceptre and the globe, all or, yoked to the mantle of the imperial prince gules lined ermine and finished by a royal crown."* These rights have been notified to the public

by an edict published in the Official Journal of the Sicilian Region, no. 29, of 20 July 2012, parts two and three, page 16, text no. 59.

E) The Sovereign Constantinian Order of Cappadocia is a subject of International Law, equal in every way to a foreign State, independent, dynastic, religious, lay, military, knightly and noble. The Order refers, in principle, to the historical, religious, military and knightly tradition of the Order founded by Constantine the Great, Roman Emperor from 306 to 337, and to the Imperial Constantinian Order of Cappadocia, of the dynasty of Marciano II Lavarello Lascari Palaeologo Basileo of Constantinople - Serbia, direct descendant of the Emperor Constantine I (272-337) and Emperor Alessio III, of the dynasty of Angeli (1185-1204). The Sovereign Constantinian Order of Cappadocia was formed for the defence of the faith, service to the ill, to the poor, to churches which refer to the teachings of Jesus Christ and for the care, through works of mercy, of the ill and the needy. The Order, true to the precepts of Our Lord Jesus Christ, wishes to affirm and disseminate the Christian virtues of charity and humanity, without distinction of religion, race, origin or age. The Order is a subject of International Law, neutral in perpetuity, repudiates war as an instrument affronting the liberty of other peoples and as a means of resolution of international disputes, and is an ordinance which wishes to ensure peace and justice among Nations. The Order exercises its sovereign functions and activity in the hospital field, including social and health care. The Order protects and diffuses the ecumenical spirit, promoting greater general knowledge of the tradition of the Eastern Holy Roman Empire, encourages the human, spiritual, moral and religious training of the Knights and Ladies, fostering initiatives linked to the religious nature of the Order. Personal liberty in inviolable No form of detention, inspection or personal registration, or any other restriction of personal liberty is admitted in the field of the Order. The limitations on the exercise of the rights of citizens of the Order are those provided in the law. In the ambit of the Order, secret associations and those which pursue, even indirectly, political objectives through organizations of a military nature, are prohibited. All have the right to declare their thinking freely by means of words, writing and any other form of dissemination. The Sovereign Constantinian Order of Cappadocia has its seat in the Principality of

Andorra, at Calle Obac, 1, 5-3, AD700 Escaldes-Engordany. The seat of the Sovereign Constantinian Order of Cappadocia can be transferred by the Grand Master, by Magisterial Legislative Decree, to the territory of any other State, preferably neutral. The sources of law of the Sovereign Constantinian Order of Cappadocia are: 1) its Constitution; 2) legislative provisions; 3) international agreements; 4) the Order's codes; 5) custom. The Order's flag is blazoned as follows: *"White with the Constantinian cross surmounted by a Byzantine imperial crown, charged with a wheel or, bordered azure and a lion outlined or, tongue gules, crowned in the old style, all bordered or, with eight roses azure. In Latin characters, the motto "Fidelitas", placed below the cross."* The official languages of the Order are Spanish, French, English and Italian. The members of the Order, appointed by Magisterial Legislative Decree, are professed knights of justice, knights and ladies of Honour and Devotion and knights and ladies of Magisterial Grace. The professed knights of justice are priests of Churches of Christian origin and formation. The knights of justice not professed give a simple vow of obedience. The knights and ladies of Honour and Devotion are those who present evidence of nobility on the paternal or maternal side. The knights and ladies of Magisterial Grace are those who do not make vows and are prepared to undertake to serve the Order for the achievement of its ends, they do not present evidence of nobility and are admitted by reason of meritorious acts with the Order in the observance of the purpose of its constitution. The knights and ladies are citizens of the Sovereign Constantinian Order of Cappadocia. The knights of justice not professed, the knights and ladies of Honour and Devotion and the knights and ladies of Magisterial Grace are, by law, citizens of the Sovereign Constantinian Order of Cappadocia. Citizenship is granted and withdrawn in accordance with the forms and in the terms established in the law. Citizenship is granted, by Magisterial Legislative Decree, to those individuals who ask for it, who have reached eighteen years of age and who have no criminal record. All the citizens have equal social dignity and are equal before the Law, without distinction of sex, race, language, religion, political opinions or personal and social conditions. On 13 September 2012, the following citizens were registered in the database of the Sovereign Constantinian Order of

Cappadocia: 1) Valeria Ana Inés Andújar Colom, born in Paris, France, on 1 February 1968, resident at Calle Carles Ribas 1-5 bajos, 12, - 08190 Sant Cugat del Vallès, Spain; 2) Francisco Rodríguez Aguado, born in Granada, Spain, on 14 April 1951, resident at Camino de Cañaveral 23, Huerta del Carmen – 18004 Granada, Spain; 3) Rosa Jiménez Guardia, born in Spain on 17 March 1952, resident at Camino Cañaveral 23, Huerta del Carmen - 18004 Granada, Spain; 4) Emmanuel Andújar Colom, born in Cannes, France, on 22 February 1969, resident at Calle Basses, 41/43, 2-2, – Rubí 08191, Spain; 5) Monika Sereckyte, born in Vilnius, Lithuania, on 21 June 1980, resident at Zalgerio, 93-21 – 08218 Vilnius, Lithuania; 6) Lucas Díez Honrado, born in León, Spain, on 16 December 1951, resident at Calle Sant Eduard, 31 – 2 – 08172 Sant Cugat del Vallès, Spain; 7) Begoña Miranda Ramírez, born in Baracaldo, Spain, on 11 April 1954, resident at Calle Sant Eduard, 31 – 2 – 08172 Sant Cugat del Vallès, Spain; 8) Delphine Andújar Tomasini, born in Perpignan, France, on 16 December 1977, resident at Chemin du Vallon des Vaux, 7 – Le Lombardi – 06800 Nice, France; 9) Marcos Ruggirello, born in Nice, France, on 8 September 1972, resident at Chemin du Vallon des Vaux, 7 – Le Lombardi – 06800 Nice, France; 10) Miguel Ángel López, born in Tarragona, Spain, on 3 March 1947, resident at Calle Rosellón, 217 – Pr. B – 08008 Barcelona, Spain; 11) Josefa Jiménez Guardia, born in Linares, Spain, on 15 September 1958, resident at Avenida de Andalucía, 40 – 6-F – 23700 Linares, Spain; 12) Raquel Rodríguez González, born in Granada, Spain, on 10 November 1975, resident at Camino Cañaveral, Huerta del Carmen, 23 – 18004 Granada, Spain; 13) Susana Jiménez Novillo, born in Madrid, Spain, on 28 April 1970, resident at Calle Vicente Espinel, 34 – 4-A – 28017 Madrid, Spain; 14) Gabriel Antonio Rodríguez Jiménez, born in Granada, Spain, on 20 April 1982, resident at Calle Vicente Espinel, 34 – 4-A – 28017 Madrid, Spain; 15) Francisca Andújar Vilches, born in Melilla, Spain, on 25 August 1949, resident at Calle Gerona, 1 – 23710 Bailén, Spain; 16) Víctor Andújar Murcia, born in Sant Cugat del Vallès, Spain, on 27 March 1980, resident at Calle Golf de Botnia, 8 – 08198 Sant Cugat del Vallès, Spain; 17) José Galera Andújar, born in Palma de Mallorca, Spain, on 14 August 1972, resident at Calle Pintor Rafael Hidalgo Caviedes, 42 – 23009 Jaén, Spain; 18) Yolanda Galera

Andújar, born in Jaén, Spain, on 28 February 1974, resident at Calle Gerona, 1 – 23710 Bailén, Spain; 19) Javier Galera Andújar, born in Granada, Spain, on 17 December 1981, resident at Calle Gerona, 1 – 23710 Bailén, Spain; 20) Luis Espejo y Valdelomar, born in Madrid, Spain, on 10 December 1949, resident at Avenida Pedro Díez, 4, Portal 3 – 1-B – 28019 Madrid, Spain; 21) José-Pedro Bartolomé y Sources, born in Calatayud, Spain, on 6 August 1956, resident at Plaza Santa Bárbara, 3 – 1-P – 28004 Madrid, Spain; 22) Javier Chorda Ruiz, born in Barcelona, Spain, on 27 March 1962, resident at Calle Navas de Tolosa, 340 – At.-4 – 08027 Barcelona, Spain; 23) Antonio Álvarez Macías, born in Bilbao, Spain, on 9 August 1960, resident at Calle Emilio Arrieta, 5 – 2-Izq. – 48012 Bilbao, Spain; 24) Roberto Schiavone, born in Salerno, Italy, on 2 December 1957, resident at Via R. Mauri, 63 – Salerno, Italy; 25) Fabio Schiavone, born in Salerno, Italy, on 19 August 1989, resident at Via IV Novembre – Pontecagnano, Italy; 26) Felice Carpentieri, born in Salerno, Italy, on 3 January 1986, resident at Via R. Schiavone, 6 – Salerno, Italy; 27) Emilia Genovese, born in Salerno, Italy, on 5 May 1978, resident at Via Genovesi, 39 – Castiglione dei Genovesi, Italy; 28) Maria Lembo, born in Castel S.Lorenzo, Italy, on 6 November 1957, resident at Via IV de Novembre, Pontecagnano Faiano, Italy; 29) Anna Natale, born in Nocera Inferiore, Italy, on 23 April 1980, resident at Via Volto Cellaro, 8 – Mercato S. Severino, Italy; 30) Mirko Bove, born in Salerno, Italy, on 26 September 1978, resident at Via de Vita, 43 – Pellezzano, Italy; 31) Raffaella Gigantino, born in Salerno, Italy, on 24 May 1976, resident at Via Tasso, 1 – Pontecagnano Faino, Italy; 32) Luigi Bernabo, born in Salerno, Italy, on 30 September 1962, resident at Via Giovanni Guarna, 13 – Salerno, Italy. The Grand Master, in serious and urgent cases, can by a reasoned Magisterial Legislative Decree, and with a hearing of the Governing Council, suspend the exercise of the citizen's rights until a firm judgement is given by the Magisterial Court of the Order. The Grand Mastership is hereditary for the successors of His Serene Highness Prince Rafael Andújar y Vilches, born in Melilla, Spain, on 20 December 1946. The succession in the post of Grand Master will follow the regular order of male primogeniture, always preferring the earlier line to the later, and in the same line the closer degree to the more remote. The Heir Apparent to the

post of Grand Master, or from the moment of the fact that gives place to that qualification, will bear the title of Prince, with the courtesy of Serene Highness. Should all the lines legitimated by the Constitution be extinguished, the Council of State will proceed to elect the Grand Master from among the knights who profess vows of poverty and chastity. The Magisterial Legislative Decrees have the force of law, so that they do not need to be converted into law by the Council of State. The Grand Master comes of age on reaching the age of twenty-five years. The post of Grand Master is for life. Persons who have a right to succession to the post of Grand Master who have married against the express prohibition of the Grand Master or the Council of State will be excluded from the succession to the post of Grand Master for themselves and for their descendants. The consort of the Grand Master will bear the title of Princess, with the courtesy of Serene Highness. The sovereign prerogatives linked to the *Jus Majestatis* and *Jus Honourum* legitimately correspond to the Grand Master, with the power to grant, renew and recognize heraldic coats of arms, honorary and knightly titles, noble titles, with or without predicate, transmissible and not transmissible, of prince, duke, marquis, count, viscount, baron, lord, sir, noble and patrician. The courtesy titles of Don and Doña, by grant of the Grand Master, correspond to the titles of prince and duke. The person of the Grand Master is inviolable and not subject to liability. The assignation and endowment of the Grand Master are determined by law. The Secretary of State who proposes them will endorse all the actions of the Grand Master. The Grand Master is not liable for actions taken in the exercise of his functions, except in the cases of high treason or attack on the Constitution. In such cases, the Council of State will formulate an accusation against him. The functions of the Grand Master, in the event that he cannot exercise them, will be exercised by the President of the Council of State. In the event of permanent impossibility of the Grand Master, the Heir Apparent, in the event of having come of age, can exercise powers of regency until the full re-establishment of the Grand Master. The Grand Master, before exercising his functions, in a solemn ceremony and in the presence of the highest posts of the Order, will take the following oath before the Grand Chaplain: *"I promise and solemnly swear, on this most holy piece of the Cross and on God's Holy Gospels, to*

guard loyally the Constitution of the Sovereign Constantinian Order of Cappadocia and its laws, and to direct conscientiously the Order's activities. So help me God!"

The post of Grand Master is incompatible with the exercise of any other post in the Order. The Grand Master can send messages to the Council of State. He authorises the presentation to the Council of State of bills for laws at the instance of the Governing Council. He promulgates the laws and dictates the Magisterial Legislative Decrees, with the force of law, and regulations. He appoints the officials of the Order. He sends and receives diplomatic representatives. He ratifies, on authorization by the Council of State, international treaties. Having heard the Governing Council, and by Magisterial Legislative Decree, he grants the honours of the Order of Merit of the Sovereign Constantinian Order of Cappadocia and the other orders constituted. The Grand Master, having heard the criteria of the President of the Council of State, can dissolve the Council of State. The powers of the organ thus dissolved are deferred until it is newly constituted. The exercise of the legislative function corresponds to the Council of State. The number of Councillors of State is twelve, of whom eight are of magisterial appointment, by Magisterial Legislative Decree, and four are elected by the citizens. The Council of State remains in office for five years. The Council of State, by the corresponding law, empowers the Grand Master for the ratification of international treaties. The Council of State, within six months counting from the end of the year, approves the balance sheet and definitive rendering of accounts presented by the Governing Council. Laws which involve new or greater expenses must indicate the means of meeting these. The State balance sheet must be solvent. The Council of State can delegate to the Grand Master the exercise of the legislative function for certain questions, for a limited time and for defined purposes. The Council of State can approve, by majority, a question of confidence over the action of the Governing Council or the Secretaries of State, considered individually. Should the question of confidence in the Governing Council prosper, the First Secretary of State will present to the Grand Master the resignation of the whole cabinet. The Grand Master promulgates the laws in the eight days following their approval. When the Council of State, by majority, declares the urgency of a law, it can be promulgated in the time

established in it. The laws have to be published in the Official Gazette of the Sovereign Constantinian Order of Cappadocia, and come into force on the same day of their publication. The Grand Master, before proceeding to the promulgation of a law, may require further deliberation by the Council of State. The Council of State can order, with authorization by the Grand Master or on his requirement, investigations into specific matters. To that end, the Council of State will appoint, from among its members, a special committee. The Governing Council is presided over by the Grand Master. The Governing Council is composed of the Grand Master, the First Secretary of State, the Secretary of State of the Treasury, the Secretary of State for Foreign Affairs, the Secretary of State of the Interior, the Secretary of State for Justice, the Secretary of State for Solidarity and the Secretary of State of Health. The First Secretary of State exercises his functions as directly dependent on the Grand Master. The Grand Master, by Magisterial Legislative Decree, appoints and dismisses the Secretaries of State. The Secretaries of State, before taking up their functions of government, will give an oath between the hands of the Grand Master. The Secretaries of State have the status of Ministers. The Governing Council is invested with the broadest powers for the ordinary and exceptional management of the Order, without any limitation, with the power to carry out all those acts deemed fit for the achievement of the ends of the Order, excluding those which the Constitution reserves, imperatively, to the Council of State, the Constitutional Court or the Court of Accounts. Consequently, the Governing Council is empowered to acquire, sell or exchange chattels and real estate; contract loans, guaranteeing them with mortgages over the Order's assets; permit the practising of mortgage cancellations and annotations; cancel legal mortgages and exempt the property registries from all responsibility; concede and reach compromises with arbitrators and even with referees; open and close bank and financial accounts and carry out all kinds of transactions with banks and financial companies. The Grand Master is empowered to appoint directors and attorneys *ad negotia* for certain acts or types of acts. The Grand Master has the power of veto over all the activities of the Secretaries of State. The agreements of the Governing Council acquire executive force through the Magisterial Legislative Decree.

Decrees *Motu Proprio* of the grant or withdrawal of honours and noble titles must be endorsed by the First Secretary of State, and do not need to be converted into law. The Grand Master, in cases of necessity and urgency, promulgates the law decrees approved by the Governing Council. The decrees must be converted into law within twelve months counting from their promulgation. The Court of Accounts supervises and controls the expenses needed for the Order's global heritage. The Court of Accounts is formed of five members. The Grand Master appoints three members, by Magisterial Legislative Decree, and the other two are elected by the Council of State. The President of the Court of Accounts is appointed, by Magisterial Legislative Decree, by the Grand Master. The Vice-President and the Secretary are elected, by absolute majority of its members, by the members of the Court of Accounts. The members of the Court of Accounts hold their posts for a term of five years and must have training in the financial, economic and legal fields. The Magisterial Constitutional Court hears disputes relating to the constitutional legitimacy of the laws and accusations made against the Grand Master and against the Secretaries of State. The Magisterial Constitutional Court is formed of six members, two thirds of them appointed by the Grand Master, through Magisterial Legislative Decree, and one third by the Senate of State. The magistrates of the Magisterial Constitutional Court are elected from among magistrates of the magistrates' courts, university professors and among lawyers registered in the Order's records. The constitutional magistrates hold their posts for five years. The President of the Magisterial Constitutional Court is appointed, by Magisterial Legislative Decree, by the Grand Master. The Vice-President and the Secretary are elected by absolute majority. The departments of the Order are regulated under the provisions dictated by the Grand Master through Magisterial Legislative Decree. The Departments Regulation establishes the fields of competence, attributions and responsibilities of the relevant employees and officials. Justice is administered in the name of His Serene Highness the Prince Grand Master. The judges are subject to the law. The Grand Master presides over the Upper Council of the Magistracy of the Order, composed of five members. The Grand Master appoints three members of the Upper Council of the Magistracy by Magisterial Legislative Decree,

and the other two are chosen by the Council of State. The Upper Council of the Magistracy remains in office for five years. The Magisterial Courts exercise the jurisdictional function in accordance with the codes and laws of the Sovereign Constantinian Order of Cappadocia. The Grand Master, on a proposal by the Governing Council and by Decree, appoints the Presidents, Magistrates and Chancellors of the Magisterial Courts. The Magistrates of the Magisterial Courts, chosen among citizens of the Order especially expert in law, are appointed for an open-ended period and can be dismissed by Magisterial Legislative Decree by the Grand Master, having heard the Governing Council. The Judicial Order and proceedings before the Magisterial Courts are regulated by the Order's codes of procedure. Laws of revision of the Constitution and other laws of a constitutional nature can be amended by the Council of State, by majority of two thirds of its members. The Grand Master enjoys the right of veto over the laws of constitutional revision.

F) The Public Prosecutor General has indicated that the term "citizen" does not belong exclusively to States, as subjects of International Law, since other subjects of International Law, at the end of the 1940s, began to use it to indicate subjects with rights and obligations under their own ordinance. For example, the treaty constituting the European Community, which is an international organization without territory, and which acquired executive force in Italy through the Act no. 1203, of 145 October 1957, published in no. 317 of the Official Gazette of the Italian Republic, of 23 December 1957, and came into force on 1 November 1993, instituted European citizenship in its article 17. Thus, citizenship can be defined as the status of belonging to a specific ordinance, or the status of whoever is the holder, under it, of certain rights and obligations. Article 17 of the EC Treaty affirms literally that "a citizen of the Union is everyone who bears the nationality of a member State". This type of citizenship, therefore, by express definition in the Treaty itself, is a citizenship of a supplementary nature, not substitutive. Supplementary because the rights of the European citizen can be exercised only in the presence of a certain condition: possession of the nationality of a member State of the European Union. It is not substitutive because the European citizen retains his nationality of origin. Thus we are in the presence of a dual

citizenship. The citizenship of the Sovereign Constantinian Order of Cappadocia, however, is full and exclusive citizenship, since the exercise of the right of citizenship of that Order does not depend on compliance with any condition. Any possible additional citizenship which the citizens of the Sovereign Constantinian Order of Cappadocia may hold will be a citizenship which cannot in any way influence the duties and obligations of citizenship of the Order itself. The Sovereign Constantinian Order of Cappadocia does not claim any territory subject to the sovereignty of other States and respects the territorial integrity of the States comprised in the International Community. For all these reasons, and in accordance with the principle of self-determination of peoples affirmed by the United Nations Assembly in its resolutions of 1960, 1970 and 1974, the citizens of the Sovereign Constantinian Order of Cappadocia are entitled to international protection.

G) The Public Prosecutor General of the European Court of Arbitral Justice of Ragusa, represented by the Deputy Public Prosecutor, Doctor Alessandro Rappa, understands that the Sovereign Constantinian Order of Cappadocia is not a subject of International Law, in everything identical to a foreign State, but rather a cultural association under private law. Article 18 of the Italian Constitution establishes that Italian citizens can freely form associations for purposes which are not prohibited by criminal law, that is to say, by an ordinance higher than association. By the contract of association, two or more subjects undertake, by means of a permanent organization, with seat in Italian territory, to pursue a common non-financial objective. In other words, the Italian association under private law is an exclusively social institution. Also, the association survives exclusively on contributions in specie, in money or in the supply of work which each associate contributes to the associative body for the achievement of a common object. Another element of the association is its voluntary nature, that is to say, Italian citizens are free to form an association or dissolve it, in the event of having achieved its object or because it is impossible to do so. On the other hand, the Sovereign Constantinian Order of Cappadocia, in being a subject of International Law, identical in all ways to a foreign State, is due the legal treatment applicable to States, and the resolutions dictated by their courts, for example those of the Sovereign Order

of Malta, have the nature of jurisdictional resolutions of a foreign State. Therefore, the Public Prosecutor General's argument cannot be upheld where it classifies the Sovereign Constantinian Order of Cappadocia as a mere association under private law, since the constitutional ordinance of that Constantinian Order of Cappadocia does not match the constituent elements of a private law association.

H) The ordinary term of prescription, which formerly was fixed at thirty years, was reduced to one third of that by the provision of article 2946 of the Civil Code of 1942. This period of ten years applies to all those rights with respect to which the law does not establish otherwise. Prescription consists of the extinction of a subjective right through lack of its exercise during a period of time fixed by law. Legal language, when speaking of prescription, refers normally to the extinguishing prescription, although the term "prescription" is also used on occasions to mean the opposite case, that is to say, acquisitive prescription or usucaption. This question is regulated in articles 2934 - 2963 of the Civil Code. The institution of prescription finds its raison d'être in the requirement of certainty of the right: if the holder of a right does not exercise it during a prolonged period of time, the legal ordinance recognizes the suitability of protecting the interests of the passive subject in not continuing to be obligated for an open-ended period of time. Rights not susceptible of disposal are not subject to prescription, nor are those susceptible of prescription where they are expressly declared by law as not subject to prescription. Among the rights not susceptible of disposal are personality rights, family situations and the authority of parents over their children. Among the rights susceptible of disposal and not subject to prescription are property rights (although subject to the institution of acquisitive prescription, the usucaption), the right to the position of heir, which equally here meets the limit of possible usucaption by third parties of hereditary assets, and the right to assert the nullity of a contract. Prescription starts from the day on which the corresponding right could be exercised. In civil law, prescription is an exception typical of a party: it cannot be appreciated ex officio by the judge but has to be expressly argued by the interested party. This means that whoever is brought to trial for compliance with an obligation already prescribed, has the power to be party in the process (through a lawyer, when that is the form), and

to formulate verbally the exception of a preliminary question. In this case, the rights not exercised over the Imperial Constantinian Order of Cappadocia, over the title of Prince of Cappadocia, over the title of Byzantine Prince of the Eastern Holy Roman Empire, over the imperial heraldic arms of the Dynastic Order referred to and over the arms of Prince of Cappadocia, corresponding to the heirs of Marziano Lavarello, who was born in Rome on 17 March 1921 and died in the same city on 17 October 1992, were extinguished, in accordance with the terms of article 2946 of the Italian Civil Code, on 17 October 2002.

I) The Grand Master of the Sovereign Constantinian Order of Cappadocia, by Magisterial Legislative Decree number 3, promulgated in Lugano, Switzerland, on 22 August 2012, with signature legalized on the same date by Monica Mayer Suà, Notary of Lugano, and which bears apostille no. 15854, placed by the Chancellery of State of the Canton of Ticino on 22 August 2012, constituted the Order of Merit of the Sovereign Constantinian Order of Cappadocia in order to "give special recognition to those who have acquired special merit with the Sovereign Constantinian Order of Cappadocia". In the light of current law, the evolution of the theme of knighthood is not a simple question. For comprehension of this matter, vast and complex, this Court wishes to run through some historical and case-law passages. As is affirmed in judgement no. 1624 of the Supreme Court of Cassation, of 23 June 1959, General Registry no. 24430/58, the Italian legislator has not regulated this matter. There is, therefore, a legislative gap which case-law has only partly filled. The legislator has been silent on this material for more than sixty years, that is to say, since 1951, since the year in which, with articles 7 and 8 of the Law no. 178, of 3 March 1951, it was believed that definitive concepts and rules had been fixed. Wishing to make a classification of honours, Sansovino classified titles as decorations of spur, cross and collar. The knighthood of the spur was conferred on princes, feudal lords, former knights and municipalities. These knights were differentiated from the Knights of Justice, that is to say, those of noble descent, and the Knights of Grace, that is, those lacking noble descent. This type of knighthood granted hereditary nobility to those thus distinguished. This disappeared with the emergence of absolutism. The knighthood of

the cross was a type of knighthood created voluntarily to give assistance to the "*theological development of the Church*", the defence of the Holy Sepulchre and the care of the mutilated and wounded. Particularly distinguished in this work was Fra' Gerard Thom, also called Sasso, who, in Jerusalem, with a group of volunteers, founded in 1100 the Hospitaller Order of St. John of Jerusalem, to care for the poor and ill, which later became the existing Order of Malta. Another important founder of orders was St. Bernard of Clairvaux, who founded in Palestine "*organizations whose mission was to safeguard the Holy Sepulchre and the pilgrims who arrived there, and to care for the mutilated and wounded in the expeditions to the Holy Land*". To this category belong the religious orders. The third category of knights, those of the collar, was formed to reward the merits and virtues of a very small circle of persons very faithful to the Sovereign. The orders of the collar came to be the highest dynastic institutions of some European reigning houses such as, for example, the Golden Fleece in the States of the Hapsburgs and Bourbons, while the Most Holy Annunciation became the maximum distinction of the House of Savoy and the Kingdom of Sardinia. After the French Revolution, 14 July 1789, the orders of merit arose "*to recognize and compensate publicly personal merit acquired before the State and the national community*". Bascapè distinguishes the orders between: a) State orders, which are those belonging to the heraldic heritage of a nation; b) Dynastic-state orders which, belonging to the historical heritage of a reigning family, have been transferred to the nation; c) Dynastic orders, which are those belonging to the heraldic heritage of a reigning family; d) Pontifical orders, including those of sub collation, such as the Equestrian Order of the Holy Sepulchre of Jerusalem; e) Magisterial orders, in which, formerly, the Grand Master held sovereignty over the order. Domenico Libertini, in his work "*Dagli antichi cavalieri agli attuali Ordini Cavallereschi – 2008*", writes that "*excessive recourse to categories which sketch the past without taking reality into account, could be mistaken and lead to confusion for the interpreter of current law, taking into account that these categories could have been eliminated from the legal ordinance, wholly or partially, by repeated institutional transfers*". Wishing in this way to trace a classification, new and more modern, adjusted to the Italian legal

ordinance, reference must be made to the content of articles 7 and 8 of the Law no. 178, on the institution of the Order of Merit of the Italian Republic and the legal regime for the grant and use of distinctions, of 3 March 1951, published in number 73 of the Official Gazette of the Italian Republic, on 30 March 1951. This law contains provisions relating both to the Orders of Knighthood of the Kingdom of Italy and to those of the Holy See and those of the Sovereign Military Order of Malta. In accordance with the provision in section three of article 7 of the Law 178/51, the Orders of the Holy See will continue to be governed by current provisions, that is to say, Royal Decree no. 974, of 10 July 1930. Article 41 of the Lateran Concordate, establishes the obligation for the Italian State to authorise their use by simple registration of the document of appointment, a registration which must be made on presentation of the aforesaid document and at the instance of the interested party. Therefore, the authorization of use is a obligatory act, leaving aside control, by the Italian authorities, of the merely formal correctness of the act of concession, excluding any possible verification over the person so distinguished and on the motives for such grant (see article 2 of Royal Decree 974/1930). The orders of the Holy See are divided into "Orders of Collation", that is, granted directly by the Holy See, and "Orders of Sub Collation", which are granted by apostolic delegation. The Order of Malta grants a special distinction, called "*Decorazione al Merito Militense*", which is granted independently of birth and of the religion professed. The Order of Malta is the only order of knighthood recognized by the Italian Republic as a subject of International Law. The Law no. 178/51 has not altered the rules in force in matters of the use of honours, decorations and distinctions of the Order of Malta. The question of the honours of the SMOM is, therefore, regulated by specific treaties under International Law which do not foresee any demand for authorization for their use. With regard to non-national orders and independent orders, in this category we find those orders which, in not coming from a sovereign State, depending on each specific case, can be defined as "*non-national*" and, therefore, are subject to the terms of article 7 of the Italian Law no. 178/51, or which can be classified as "*independent*", and then are governed by the provision in article 8 of that law. Returning to the exegesis of Law no

178/51, reference must be made to the content of articles 7 and 8. Article 7 establishes that: "*Italian citizens cannot use in the territory of the Republic honours or knightly distinctions which may have been granted to them in non-national Orders or foreign State Orders, without having been authorized by decree by the President of the Republic on a proposal of the Ministry of Foreign Affairs. Offenders will be punished with administrative sanctions (...)*". Article 8 establishes that: "*Independently of the terms of article 7, the grant of knightly honours, decorations and distinctions, whatever may be their form or name, by entities, associations or private parties is prohibited. Offenders will be punished with a prison sentence of six months to two years, and with a fine (...). Whoever uses, in any form or shape, the honours, decorations or distinctions referred to above, even when they were conferred before the entry into force of this law, will be punished with an administrative sanction (...). Conviction for the offences envisaged in the above sections will involve publication of the judgement in accordance with what is set out in the last section of article 36 of the Penal Code. The provisions of sections two and three will also be of application when the grant of the honours, decorations and distinctions took place abroad.*" From a reading of the Law the concept of Order belonging to a "*foreign State*" seems clear, although, in view of silence in the Law, that of "*non-national Order*" does not seem clear. The definition of this category is fundamental as it establishes the distinction between honours which can be exhibited, with authorization for use granted by the President of the Republic, and those others which, in contrast, not only cannot be exhibited but their grant is also prohibited. In other words, it has to be determined which Orders can be defined as non-national Orders in the strict sense and which, on the contrary, are not included in that category, being subject to the terms of article 8. Case-law has had the opportunity to pronounce in this respect, setting a series of criteria identifying non-national Orders. Section IX of the Criminal Court of Rome, in a judgement of 26 February 1962, established, for example, that "non-national Orders" must be understood to mean those Orders which "*have their origin not in the existing legal state ordinances, but in heraldic heritages belonging to citizens who are foreign or have international legal personality*" and the absence of the national character "*must be deduced from the*

nationality of their exponents, the place where the seat is found and possible recognition by foreign States". In other words, as explained by Marquis Prof. Aldo Pezzana, in Rivista Araldica 1962, pages 155 et seq., the decisive point to qualify an Order as non-national is that it "*is recognized as an Order of Knighthood by a legal ordinance other than that of the Italian State, that is to say, either by the ordinance of a foreign State or that of the Catholic Church, or by International Law (...). If the Order belongs to the heraldic heritage of a foreign non-sovereign family (or ex-sovereign), it will have to be considered as "non-national" if it is recognized by the legislation of the State whose nationality is held by the Grand Master. If the Order belongs by hereditary law to an Italian not ex-sovereign family, or to a foreign family, which is in an analogous situation and whose rights over the Order have not been recognized in their country, the grant of honours will fall into the sanctions envisaged in article 8. If, on the other hand, it is a dynastic Order of an ex-sovereign family* (this being the hypothesis which arouses most doubts) *we understand that the Order can only be considered as "non-national" if the former reigning House had been recognized by International Law and foreign States to have a particular legal status, special relevance for the position as ex-reigning family and for their claims to restoration*". With regard to Orders of this last type, the Supreme Court of Cassation established, in its Section III, on 4 February 1963 and 6 October 1965, that "*the fons honoris can be included in any case only as one of the constituent elements of the non-nation character of an Order of Knighthood, but cannot by itself alone express the non-national nature of the Order itself; together with the hereditary character this requires the nature and organization inherent, even when not identifiable, to authentic legal international subjectivity, the object and validity of the Order in relation with its history and tradition*". With regard to Orders of an associative nature, according to Pezzana again (op. cit. Page 161), "*only those can be considered as "non-national" which have obtained from a foreign State unequivocal legal recognition (understood as not only private associations but also as entities with the power to grant honours)*"; (and in this sense, also Amedeo Franco, in Enc. Dir., entry "Onorificenze"). From this argument, the Ministry of Foreign Affairs, in the light of the opinion of Section I of the

Council of State, no. 1869/1981, and the opinion in the Diplomatic Contention of 18 April 1996, in note number 022/363, of 29 July 1999, established the following categories: 1) national Orders of foreign States, which form part of the heraldic heritage of a nation; 2) Pontifical Orders, that is to say, emanating from the Supreme Pontiff; 3) dynastic Orders, in which the Grand Mastership has a hereditary nature in a currently reigning family: the use of the corresponding honours is susceptible of authorization since these are non-national Orders; 4) non-national dynastic Orders, in which the Grand Mastership has a hereditary nature in an ex-sovereign family; the use of the corresponding honours is susceptible of authorization as these are non-national Orders, provided that they have arisen and were constituted when the family now ex-sovereign was, in contrast, regent and that there had been uninterrupted title in the head of the family and that there had been no suppression, by the head of the family; in this context suppressions by other legal subjects is not relevant, even when of a State nature, which do not have the power of suppressing the Order itself, because basically it formed part of the heritage of the family reigning at that time, but only of ignoring it; 5) sovereign Orders, in which sovereignty derives either from ancient possessions with the nature of sovereignty and effective recognition by Sovereigns or Pontiffs: the use of the relevant honours is susceptible of authorization when there is evidence of pre-existing territorial sovereignty, or when such sovereignty had been recognized by kings, emperors or reigning pontiffs, and provided that continuity can be accredited in accordance with its own ordinance; even in this case, possible suppressions by different ordinances would lack relevance; 6) Magisterial Orders in which the Grand Master does not descend from the ex-sovereign family, or those in which the Grand Mastership is of an elected nature and not hereditary: the honours of these Orders are susceptible of authorization only in the event that such Orders have obtained recognition from, at least, one foreign State (provided that there are no express rules to the contrary or it is inadvisable for political reasons) and, therefore, can be included in the broad concept of non-national Orders. Otherwise, these Orders would have to be considered as mere associations under private law which, in the event that they grant honours, decorations or knightly distinctions, could be the subject of sanction in

accordance with the terms of article 8 of Italian Law no. 178/51. The Ministry of Foreign Affairs, in a later note, number 022/713 of 13 December 1999, indicated some non-national Orders with respect to which the Ministry itself understood the grant of authorization for the use of the corresponding honours to be possible. Among these are: the Sacred Angelic Imperial Constantinian Order of St. George, the Sacred Military Constantinian Order of St. George (only the Naples branch, not the Spanish: in this respect reference is made to Council of State opinion no. 1869/81), the Order of St. Stephen, Pope and Martyr, the Order of Merit, under the title of St. Joseph, the St. George Decoration for Military Merit of Lucca, the Royal Order of Merit, under the title of St. Ludwig and the Order of the Eagle of Este. With regard to the Sovereign Imperial Military Order of the Iron Crown, which at one time was understood as "*susceptible of authorization*" by the Ministry of Foreign Affairs, it must be pointed out that the Council of State, in opinion no. 813/01 of Section I, of 27 July 2001, understood it appropriate to recommend to the Ministry of Foreign Affairs that it should refrain from granting new authorizations under the terms of article 7 of the Law no. 178/51. And this on appreciating that such Orders would not enjoy recognition by a foreign ordinance, especially that of the French State and in contrast, therefore, with the principles expressed by the more accepted doctrine, referred to above, and the Ministry of Foreign Affairs in its note of 29 July 1999, with number 022/363. More specifically, the Council of State understands that the French State has not recognized that Order as an Order of Knighthood, but simply as a mere "*Historical association*". With respect to the Illustrious Royal Order of Saint Januarius, the Order of Saint Ferdinand and the Royal Order of Francis I of the Two Sicilies, the Ministry, taking into account that the current dynastic situation does not allow the holder of the magisterial rights to be precisely identified, understands that it is correct to refrain from granting the authorization of use for the corresponding honours, while waiting for the dynastic conflict to be defined. In relation with Orders linked to the House of Hapsburg, as Sovereign of the Lombardo-Veneto Kingdom, the Ministry understands that honours can no longer be granted because of the renunciation of succession rights, either in the act of recognition by the Austro-Hungarian Empire of the union of the

Venetian Realm to the Kingdom of Italy, or in the renunciation in the sixties by the head of the Imperial House, Otto of Hapsburg, of his own succession rights. With regard to Orders of the House of Savoy, the Ministry understands that the Civil Order of Savoy, in not being a State among those named in the Law no. 178/51, could be considered legitimate. Today, the Ministry of Foreign Affairs normally authorises honours granted by the Orders listed below, understood as non-national, in the sense of the Law no. 178/51 and the Council of State opinions already mentioned. Among these are the Order of St. Stephen, Pope and Martyr and the Order of St. Joseph, both of the Hapsburg-Tuscany dynasty; the Order of the Eagle of Este, of the Hapsburg-Este dynasty; the Constantinian Order of St. George, of the Bourbons of Parma; the Order of St. Ludwig of Parma and the Order of St. George for Military Merit, both of the Bourbon-Parma dynasty; the Constantinian Order of St. George, of the Bourbon-Two Sicilies and Bourbon of Spain dynasty. This list does not have, nor could it have, a restrictive nature, since the ministerial authorization is optional and is granted case by case, after supplying the relevant documents and possible ministerial investigations which could affect the Order, to whoever affirms being lawfully the Grand Master and the personal and moral conditions of the distinguished person. De Francesco, well-known scholar of Heraldic Law, has made clear the defective legislation and the enormous efforts that the Supreme Court of Cassation is making to bring it closer to the constitutional spirit and liberties. The question of knighthood has never been a simple question to deal with. In the opinion of this Court, hurried legislation, often imperfect or, at the very least, with gaps, on occasions dictated by reasons of a contingent and not historical order, perhaps even political, requires intelligent interpretation by Justice so that the world has no grounds on which to criticise the Italian legislator. In fact, the imperfect legal drafting of Law no. 178, of 3 March 1951, could not do more than give place to a series of legal disputes. In the immediate post-war, as is well known, a large number of orders of knighthood emerged in Italy. The inflation of honorary distinctions in our country impressed both the Vatican and the Italian Government, concerned above all with defending the Orders of the Holy See, the national Orders, the Order of Malta and that of the Holy Sepulchre. After laborious

legislative vicissitudes a law was promulgated, unique of its kind in the whole world, which exaggeratedly applied all the brakes in matters of honorific distinctions, going beyond where even the old monarchic regime had arrived. The Law even affected the secular Orders, founded on severe constitutions, with a basis of religion and charity outside all discussion, such as the Military Order of Saint Bridget of Sweden. The public authorities, with the stimulus of fairly severe instructions, began a really merciless hunt against all the Orders. According to this Court, they committed the error of speaking of legitimate and non-legitimate orders, authentic and not authentic, ancient and modern, creating a confusion which ended up by confusing the legislator. The Vatican, in the fifties, threw out all the Knightly Orders existing in Italy and abroad: calling them false and illegitimate. On doing this, the Vatican fell into legal error, as it is not possible to stigmatise as illegitimate or false a knighthood association formed in a notarial instrument and registered according to the law. On the other hand, even the Orders "*called recognized*", such as for example the Order of Malta, were born in the far-off past through the work of a group of valiant and pious knights who joined together in an association, gave themselves constitutions and embarked on a glorious tradition of good and religion. Except for evidence otherwise, even the Order of Malta had a date of birth, but it did not occur to anyone, in the first moments of its life, to call it illegitimate or false. Thus, one can speak of unrecognized Orders, but not of false Orders. The legal error committed by the Vatican made its effects felt even in the Italian State, which did not wish to be lessened and so prepared the aforesaid law, which has no precedents, as has already been said, in the legislative history of the whole world. After the promulgation of Law no. 178/51, the Italian Ministry of Foreign Affairs sent to all our diplomatic representations a verbal note with which it practically gave them a mandate to "*pursue*" Knightly Orders even abroad, making a long list of Orders, defined as false or illegitimate. So that our Ministry and, consequently, the Italian Nation, ended up by interfering in the life of knightly, heraldic and noble private institutions which had their legal seats in foreign countries. Most foreign States, as could be foreseen, were not pleased by this interference, to the point that, almost as a reaction, many governments inundated with various recognitions

the knighthood institutions indicated above which had given so much in the interests of society. In this way, there were many foreign countries which gave a lesson in highly democratic public-spiritedness. The Law no. 178/51 is of a contingent nature, has points in its formulation which are quite inappropriate and has generated endless penal disputes. Most of the processes have ended with judgements unfavourable to the State's excessively restrictive position and for that of the Vatican organs. What is obvious is that where the law is lacking, it is supplied, with equity, by the magistracy. The Court of Cassation, in fact, sustained textually, in its judgement no. 1624, of 23 June 1959, General Registry no. 24430/58, the following: "*And all the more since our legislation, having admitted the existence of what are called "non-national Orders", has still not proceeded to adopt a specific regulation in the matter, nor has it stated its intention of establishing a system of control and vigilance in relation to the effects of lawful grant and acceptance, in accordance with the terms of article 7, in the State territory such as, for example, is done by the State of California through a system of registration, having preferred rather to follow the other system. That is to say, the system of subordinating the use of honours to the authorization of the Head of State. With regard to the legislative preparation it has not been explained what should be understood by a non-national Order (...)*". Again, and for the use of honours granted by non-national Orders, the Supreme Court of Cassation, in judgement no. 2008, of 23 April 1959, General Registry no. 3909/59, established that a limited use of the honours of a foreign State or of a non-national Order can be allowed even without the authorization of the Head of State. That judgement established "*that also other organisations, as well as States, can be subjects of International Law, in view of their purposes*". In this way, case-law has put a first full stop in this complex question and, above all, has combated the erroneous affirmations of law contained in the famous communiqué of the Holy See, published in L'Osservatore Romano on 21 March 1953, on the subject of the Knightly Orders, and the verbal note of the Italian Ministry of Foreign Affairs, sent to all our diplomatic representations. In that communiqué, the Holy See, "*in order to avoiding errors and to prevent the continuation of abuses to the cost of persons of good faith, deplores the phenomenon of the appearance of supposed*

knightly orders resulting from private initiatives and which are for the purpose of replacing the legitimate forms of knightly honours". The communiqué goes on: "*As has already been said on other occasions, these self-styled Orders take their names either from Orders really existing but extinguished several centuries ago, or from Orders which have remained in a state of project or Orders which are truly fictitious and have never had a precedent in history. Among these Orders, which have never had the approval of the Holy See, the following can be mentioned (...)*". And here, among Orders of little or no importance, there are serious Orders which are more than legitimate. Now, the Holy See at that time, as has been said above, fell into a crass legal error. Because it is not possible to speak of "*illegitimacy*" of an Order, even when truly private. It could be said that it does not enjoy State recognition, that it is prohibited in one State, while it is tolerated in another, or effectively recognized in other States, but how can you, from the perspective of law, speak of "*illegitimacy*"? The Holy See should have limited itself, and it would have remained within its sovereign rights, to declaring that it did not recognize certain Orders in its State. In conclusion, one cannot speak of legitimacy and much less with reference to Orders of a private nature. One can only speak of national Orders, non-national Orders and private Orders. That the Holy See or the States then recognize such Orders or do not, or tolerate them or not, is another question. Each is its own master. Neither the Holy See not the States can reverse the right to self-determination already recognized by the United Nations. The principle of self-determination of peoples finds its confirmation in three resolutions of the General Assembly of the United Nations, from the years 1960, 1970 and 1974, in which the right of self-determination is affirmed as the right to determine freely a people's own political condition and to pursue freely their own economic, social and cultural development, as a fundamental human right, against any foreign subjugation or yoke. But there is more, the Italian Constitutional Court, in judgement no. 193/1985, of 28 June 1985, in the trial on the constitutionality of article 273 of the Criminal Code, in the criminal case against Busà Vittorio Maria, accused of the crime envisaged in article 273 of the Criminal Code, of the promotion, constitution, organization and direction, in the national territory and without the authorization of the

Government, of two associations of an international nature, one of them called "*Parlamento Mondiale per la Sicurezza e la Pace*" and the other a foreign section called "*Confédération Européenne de l'Ordre Judiciaire*", ruled that article 273 of the Criminal Code was unconstitutional and, consequently, so were article 274 of the Criminal Code and article 211 of Royal Decree no. 773, of 18 June 1931 (Redrafted text of the Legislation on Public Security), based on the fact that article 18 of the Constitution provides the right of free association and article 11 of the same Constitution sanctions that Italy "*promotes and encourages organizations directed, among other things, to the objective of repudiating war... ...as a means of resolution of international disputes, and of affirming* (to the point of limiting its sovereignty) *an ordinance which ensures peace and justice among Nations*". Therefore the ruling of the Constitutional Court of 28 June 1985 permits subjects of International Law, present in the territory of the Italian Republic, to operate freely without the authorization of the Italian Government, provided they have adopted an ordinance which repudiates war as an instrument affronting the liberty of other peoples and as a means of resolution of international disputes, which ensures peace and justice among Nations and is declared neutral in perpetuity. For these reasons, the judgements of the Italian Supreme Court of Cassation and the Italian Constitutional Court, with their normal wisdom, experience, objectiveness and calmness in judgment, have clarified many obscure points in the Law no. 178 of 3 March 1951. With regard to the position of the Order of Merit of the Sovereign Constantinian Order of Cappadocia, with respect to the Italian Law no. 178, of 3 March 1951, it is appreciated that this Law was instituted to regulate the grant of honours in the dynastic and State Orders. The Order of Merit of the Sovereign Constantinian Order of Cappadocia is an order of State, that is, a public legal person at ease in the legal ordinance from which it originates. The Order of Merit of the Sovereign Constantinian Order of Cappadocia is an order of merit of a subject of International Law, in everything identical to a foreign State.

L) The Constantinian Order of Merit of Cappadocia refers, from the start, to the founder of the Constantinian Golden Militia, Flavio Constantine Magno I Emperor, *totitus orbis imperator*, who, on the banks of the Tiber, faced and conquered the army

of the tyrant Maxentius. On that occasion, before the battle, a celestial vision appeared to Constantine, a great luminous Cross against a background of the heaven and a chorus of Angels who guarded it with the words: "**In hoc signo vinces**". After the vision, in the battle of the Milvian Bridge, on 28 October 312, Constantine ordered the divine sign to be raised on the legendary *Labarum*, with the monogram of Christ: represented by the Greek letters X and P. After the victory over Maxentius, Constantine wished to entrust the precious standard to the custody of fifty valiant soldiers, who formed the first nucleus of the Glorious Constantinian Militia. The Constantinian Order of Merit of Cappadocia has its seat in the Principality of Andorra, at Calle Obac, 1, 5-3, AD700 Escaldes-Engordany. The Grand Master of the Sovereign Constantinian Order of Cappadocia is, by right, Grand Master of the Constantinian Order of Merit of Cappadocia. Succession to the Grand Master will follow the order established in article 14 of the Constitution of the Sovereign Constantinian Order of Cappadocia. The government of the Constantinian Order of Merit of Cappadocia falls on the Grand Magisterial Chapter. The Grand Magisterial Chapter is composed of the Grand Master, the Deputy, the Grand Chancellor, the Grand Treasurer, the Grand Master of Ceremonies, the Grand Keeper of the Seal, the Grand Justice and the Grand Chaplain. The Princes of the Sovereign House of Cappadocia are members of the Grand Magisterial Chapter in full right, when reaching twenty-one years of age. The Grand Magisterial Chapter is presided over by the Grand Master. The Grand Chancellor prepares the agenda and submits it to the approval of the Grand Master. The Grand Keeper of the Seal acts as secretary in the chapter meetings. Minutes are taken of all the meetings. The minutes are signed by the Grand Master and the secretary. Resolutions are adopted by absolute majority of those present. In the case of a draw, the Grand Master has a casting vote. The resolutions of the Grand Magisterial Chapter acquire executive force by the Grand Master's Magisterial Decree. The Grand Master can require the Grand Magisterial Chapter to issue an optional and not binding opinion on any question relating to the government of the Constantinian Order of Merit of Cappadocia. The members of the Grand Magisterial Chapter have the courtesy title of Excellency. The Grand Chaplain of the Order of Merit: a) Is in charge of relations

between the Constantinian Order of Merit of Cappadocia and the Holy See; b) Encourages, independently of their creed, meetings between the Ladies and Knights of the Order of Merit; c) Takes care of the spiritual and religious growth of the Ladies and the Knights. The Grand Chaplain is due the honorary treatment envisaged in canonical law. The functions of Grand Master, in the event that he cannot exercise them, can be exercised by the Deputy. The Deputy carries out the tasks entrusted to him in writing by the Grand Master. The Deputy, with the corresponding delegation from the Grand Master, can invest new Ladies and Knights, with the ritual dubbing with the sword, the taking of the habit and delivery of the insignia of the Constantinian Order of Merit of Cappadocia. The Deputy is addressed as Serene Excellency. The Grand Chancellor is the Head of the Grand Chancellery and his functions are those of: a) Promoting contacts between the Ladies and the Knights; b) Making known the provisions and/or communications of the Grand Master; c) Keeping the official records of the Order of Merit and those of the Grand Mastership. The Grand Treasurer is the Head of the Grand Treasury, being competent for the following functions: a) The ordinary administration of the Order's assets; b) Keeping the Registers and Accounting Books; c) The annual preparation of the balance sheet of the Order; d) Collecting donations and dues from the Ladies, Knights and others. The Grand Treasurer must carry out his functions with the diligence proper to the father of a family. The functions of the Grand Master of Ceremonies are those of: a) Coordinating the official ceremonies and functions, both civil and religious; b) Dealing with protocol; c) Organizing travel, pilgrimages and scientific and cultural events. The Grand Keeper of the Seal acts as secretary in the chapter meetings. The functions of the Grand Keeper of the Seal are those of: a) Looking after the Order's historical documentation; directing the Official Register of Knightly Grants by the Grand Master. The Grand Justice receives proposals for incorporation into the Constantinian Order of Merit of Cappadocia and controls their processing. The application for entry, sent to the Grand Justice, must be accompanied by the following documentation:

a) Birth certificate;

b) Certificate of residence;

c) Declaration of no criminal records, in replacement for a minute of reputation;

d) Document evidencing payment of the chancellery dues. The documents referred to in sections a), b) and c) can be replaced by a declaration by the applicant. Persons who have been condemned to a penalty which disqualifies them from holding public posts cannot receive honours during the whole time of that disqualification, except when the disqualified person has been rehabilitated. In cases of a penalty which does not bear disqualification for public posts, or after it has been extinguished, the Grand Magisterial Chapter can express its favourable opinion to the Grand Master only when, having evaluated all the circumstances and particularly the conduct of the applicant subsequent to the conviction, it is understood that he has become deserving of the grant of the relevant honour. The Grand Chaplain, the Deputy, the Grand Chancellor, the Grand Master of Ceremonies, the Grand Keeper of the Seal and the Grand Justice are appointed and dismissed by the Grand Master by Magisterial Decree. The Grand Chaplain, the Deputy, the Grand Chancellor, the Grand Master of Ceremonies, the Grand Keeper of the Seal and the Grand Justice, before taking up their posts, will take the corresponding oath between the hands of the Grand Master. Grand Chaplain, the Deputy, the Grand Chancellor, the Grand Master of Ceremonies, the Grand Keeper of the Seal and the Grand Justice, each for his own account, will submit to the Grand Master every six months a report on the activities carried out. The Constantinian Order of Merit of Cappadocia is subdivided into five Classes: 1) Grand Cross (Knights and Ladies); 2) Grand Officer (Knights and Ladies); 3) Commander (Knights and Ladies); 4) Knight Officer (Knights and Ladies); 5) Knights and Ladies. The Princes of the Sovereign House of Cappadocia are, in their own right, Knights and Ladies Grand Cross of the Constantinian Order of Merit of Cappadocia. The shield of the Order is blazoned: "*Oval shield gules with the lion of Cappadocia outlined or and surrounded by the Grand Collar of the Constantinian Order; yoked with the two-headed eagle or wings unfolded for flight with tongue gules, armed argent and with imperial Byzantine crown, with four jewelled waving ribbons, holding in the right claw the sceptre and in the left the globe, presenting a cross patent over the eagle*". The Labarum is white, bordered in gold and clothed with the emblem of the Order, with inscription in a

semicircle of the motto "*Fidelitas*". The flag of the Order is of pink silk, bordered in gold, with a gold cross surrounded by four Cyrillic capital letters "E", linked together, and of imperial Byzantine colour, bearing the arms of the Order. The decorations of the Constantinian Order of Merit of Cappadocia are the following: a) Grand Collar; b) Ecclesiastical Grand Collar; c) Collar of Merit; d) Collar; e) Badge; f) Sash; g) Medal. These are attached to ribbons which reproduce the colours of the Flag of the Constantinian Order of Merit of Cappadocia. The Grand Decorations of the Constantinian Order of Merit of Cappadocia are the following: a) Grand Cross Collar; b) Grand Cross Sash; c) Badge; d) Grand Officer's Collar; e) Commander's Collar; f) Knight's Collar. The uniform and braid, according to classes, use of the uniform and wearing decorations in receptions, ceremonies or on public and private occasions, are governed in the corresponding regulation approved by the Grand Master. On official ceremonies the Knights of the Order wear a flared cape in crimson, with a velvet collar in red, carrying on the left shoulder the cross of the Order. The Ladies wear a black dress with long sleeves, a cape of black silk with the grand cross on the left side, and a lace veil in red over the head. The Grand Officers, with Falera Magna, wear a collar suspended from the neck, from which hangs a disc, as a medallion, with the arms of the Order. The Ecclesiastical Grand Collar is exclusively for the Grand Chaplain. The Collar of Merit can be granted by the Grand Master only to Heads of State. Applications for admission to the Order must be presented to the Grand Justice. The Grand Master, motu proprio, having heard the Grand Magisterial Chapter, will decide on applications for admission to the Order and on the grant of honours. The Constantinian Order of Merit of Cappadocia, with the corresponding class, can be granted both to citizens of the Sovereign Constantinian Order of Cappadocia and to citizens of other States, independently of race, language, religion, sex and social status. The Magisterial Decrees *motu proprio* have to be kept in the seat of the Grand Magistracy. The Grand Master appoints and dismisses the International, National and District Priors (Region, Province, City) of the Constantinian Order of Merit of Cappadocia. The International and National Priors must be Ladies and Knights of the Order of Merit. The International and National Priors have the Class of Grand Cross

and the courtesy title of Excellency. The District Priors are in the Class of Grand Officer. The Grand Master appoints and dismisses the Inspectors of the Constantinian Order of Merit of Cappadocia. The functions of the Inspectors are those of: a) Checking the correct functioning of the particular venues; b) Sending to the Grand Master the relevant reports on the inspection visits. Persons decorated in any degree are obliged to pay the contributions agreed by the Grand Magisterial Chapter. The Grand Magisterial Chapter, on a proposal by the Grand Master, can agree to exonerate those decorated, wholly or partially, from the obligation of payment of the contributions. The Grand Master can refuse applications for admission to the Constantinian Order of Merit of Cappadocia, without being obliged to give any reason. Without delay, all the documentation provided when the application for admission was presented must be returned to the interested party. The solemn festival of the Constantinian Order of Merit of Cappadocia is on 23 April every year, dedicated to Saint George of Cappadocia, Universal Patron of Knighthood. There is also the Festival of the Virgin, Mother of Jesus. This festival is held on the day set, from time to time, by the Grand Master. Competence for disciplinary trial corresponds to the Grand Magisterial Chapter. Knights and Ladies who have carried out acts not in accordance with the decorum of the Order, or acts which compromise their reputation or the dignity of the Order, will be subject to disciplinary procedure. The Grand Magisterial Chapter, under the presidency of the Grand Master and at the instance of the Grand Justice, opens the disciplinary proceedings ex officio. When the accused is a member of the Grand Magisterial Chapter, the disciplinary proceedings must be opened, continued and concluded without his presence. The Grand Magisterial Chapter, having heard the accused and on a reasoned resolution, imposes the disciplinary sanctions. These are: a) a warning; b) censure; c) suspension from the Constantinian Order of Merit of Cappadocia for a period of not less than two months or more than one year; d) expulsion from the Constantinian Order of Merit of Cappadocia. The Grand Master, on a proposal by the Grand Magisterial Chapter, approves the regulations implementing this Statute.

M) The Sovereign Constantinian Order of Cappadocia, as holder of an authentic independent ordinance, enjoys under International Law, and therefore in the Italian ordinance, by virtue of the rule of automatic incorporation established in section one of article 10 of the Italian Constitution, special functional subjectivity for the undertaking of its own institutional ends, such as those indicated in article 2 of the Constitutional Charter of the Order in question, and is assisted, in this field, in the same way as recognized for other international organizations, by the prerogatives which normally correspond to territorial States by reason of their sovereignty (Sole Section 2051/1978 and 1653/1974; Section I, 11778/1991). Sovereignty is translated, essentially, into immunity to the jurisdiction of other States, which is expressed in the customary rule of International Law "*par imparem non habet iurisdictionem*" (See Cassation no. 8433/1990) and, therefore, by indifference to their taxation powers, which constitutes one of the attributes of the jurisdiction (See Judgement Provincial Taxation Commission of Macerata, Section II, no. 171/2/11). This immunity (See Cassation no. 8191/1998) has been recognized, in relation to goods or assets which contribute to the natural functions of the activities carried out by the body, except where those profits are used for strictly personal and private ends. Therefore, the question relating to the tax immunity of the Order in question must be examined in relation to the functionality and purpose of the assets possessed, so that, maintaining the regime of tax immunity, not tax exemption, burden of proof relating to possible use not strictly linked to the institutional ends of the body falls on whoever claims to demand the tax. Diplomatic immunity is understood to mean all the individual treatments applied to foreign diplomatic agents accredited to a State during the whole of time that their stay in that country lasts. This institution is governed by the Vienna Convention of 1961 on Diplomatic Immunities, which came into force in 1965. Customarily, but as can be understood also from article 37 of the Convention, diplomatic immunity is recognized for the heads of diplomatic missions, diplomatic personnel and members of their families, Heads of State and Heads of Government, and Ministers of Foreign Affairs on official visits abroad, recognizing functional diplomatic immunity for consuls, but not personal immunity.

TIMBRE DEL ESTADO

CLASE 8.ª

0,03 EUROS TRES CÉNTIMOS DE EURO

OM3290141

On all these grounds

The International Civil Court–Permanent Organ of the European Court of Arbitral Justice of Ragusa, resolving on the question submitted to it by Doctor Alessandro Rappa, in his position as Deputy Public Prosecutor General of that Arbitral Court, and by H.S.H. Prince Don Rafael Andújar Vilches, in his position as Grand Master of the Sovereign Constantinian Order of Cappadocia, whose personal details have been set out above, by means of a compromise agreement formalised on 1 September 2012, in Bologna, at Via C. Colombo n. 60, registered in the Taxation Agency Delegation of Alcamo –Trapani Office, on 6 September 2012, with number 4741, series 3;

- Having seen the aforesaid introductory writs of the parties;
- Having heard the parties by telephone on 17 September 2012;
- Having seen the writs of reply of the parties;
- Having seen that, at the instance of the parties, it must resolve all the matters constituting the subject of the arbitral convention, with the effect of matter judged;
- Having seen the application, made by the Public Prosecutor General of this European Court of Arbitral Justice of Ragusa, Lawyer Baldassare Lauria, issued by email on 30 September 2012, calling for the dismissal, in both fact and law, of the claims made in the introductory writ and writ of reply by H.S.H. Prince Don Rafael Andújar Vilches, in his position as Grand Master of the Sovereign Constantinian Order of Cappadocia;
- Dismissing any other instance, exception or defence;

RULES

WITH THE EFFECTS OF A MATTER JUDGED

A) – Resolves and declares, that the Sovereign Constantinian Order of Cappadocia is legitimately a subject of International Law, independent, dynastic, religious, lay, military, knightly and noble, in all ways identical to a foreign State; and as such, with capacity to be the holder of rights and obligations arising from the international legal

ordinance, including the capacity to assert its rights by international claims and, in consequence, is due the legal treatment to which States have a right.

B) – Resolves and declares, that the Sovereign Constantinian Order of Cappadocia, as can be understood from section three of article 2 of its Constitution, is legitimately neutral in perpetuity and repudiates war as an instrument affronting the liberty of other peoples and as a means of resolution of international disputes.

C) – Resolves and declares, that the Sovereign Constantinian Order of Cappadocia legitimately has its seat in the territory of a neutral State, specifically in the Principality of Andorra, at Calle Obac, 1, 5-3, - AD700 Escaldes-Engordany.

D) – Resolves and declares, that His Serene Highness, Prince Don Rafael Andújar Vilches, born in Melilla, Spain, on 20 December 1946, has legitimately promulgated in Lugano, Switzerland, on 22 August 2012, the following provisions:

1. Decree Legislative no. 1/2012, of transformation of the Imperial Constantinian Order of Cappadocia into the Sovereign Constantinian Order of Cappadocia;

2. Decree Legislative no. 2/2012, approving the Constitution of the Sovereign Constantinian Order of Cappadocia, with the following literal tenor:

CONSTITUTION OF THE
SOVEREIGN CONSTANTINIAN ORDER OF CAPPADOCIA

TITLE I

FUNDAMENTAL PRINCIPLES

Article 1

1. The Sovereign Constantinian Order of Cappadocia is a subject of International Law, in everything equal to a foreign State, independent, dynastic, religious, lay, military, knightly and noble.

2. The Order refers, in principle, to the historical, religious, military and knightly tradition of the Order founded by Constantine the Great, Roman Emperor from 306 to 337, and to the Imperial Constantinian Order of Cappadocia, of the dynasty of Marciano II Lavarello Lascari Palaeologo Basileo of Constantinople - Serbia, direct

descendant of Emperor Constantine I (272-337) and Emperor Alexios III, of the dynasty of the Angeli (1185-1204).

Article 2

1. The Sovereign Constantinian Order of Cappadocia is constituted for the defence of the faith, service to the ill, the poor, to churches founded on the teachings of Jesus Christ and for assistance, through works of mercy for the ill and the needy.

2. The Order, true to the precepts of Our Lord Jesus Christ, wishes to affirm and disseminate the Christian virtues of charity and brotherhood, without distinction of religion, race, origin or age.

3. The Order is a subject of International Law, neutral in perpetuity, repudiates war as an instrument affronting the liberty of other peoples and as a means of settling international disputes, and is an ordinance which wishes to ensure peace and justice among Nations.

4. The Order exercises its sovereign functions and activity in the hospital field, including social and health care.

5. The Order protects and disseminates the ecumenical spirit, promoting a greater general knowledge of the traditions of the Eastern Holy Roman Empire, encourages the human, spiritual, moral and religious training of the Knights and Ladies, promoting initiatives linked to the religious nature of the Order.

Article 3

1. Personal liberty is inviolable.

2. In the ambit of the Order no form of detention, personal examination or search, or any other restriction of personal liberty is admitted.

3. The limitations on the exercise of the citizen's rights under the Order are envisaged in the law.

Article 4

In the ambit of the Order, secret associations and those which pursue, even indirectly, political objectives through organizations of a military nature are prohibited.

Article 5

Everyone has the right to declare his thinking freely, by means of speech, writing or any other means of dissemination.

TITLE II

SEAT

Article 6

1. The Sovereign Constantinian Order of Cappadocia has its seat in the Principality of Andorra, at Calle Obac, 1, 5-3, AD700 Escaldes-Engordany.

2. The seat of the Sovereign Constantinian Order of Cappadocia can be transferred by the Grand Master, by Magisterial Legislative Decree, to the territory of any other State, preferably neutral.

TITLE III

SOURCES

Article 7

The sources of law of the Sovereign Constantinian Order of Cappadocia are:

1) The Constitution;

2) Legislative provisions;

3) International agreements;

4) The Order's codes;

5) Custom.

TITLE IV

THE FLAT

Article 8

The blazon of the Order's flag is as follows: *"White with the Constantinian cross surmounted by a Byzantine imperial crown, charged with a wheel or, bordered azure, and a lion outlined or, tongue gules, crowned in the old style, all bordered or, with eight roses azure. In Latin characters, the motto "Fidelitas", placed below the cross."*

TITLE V

OFFICIAL LANGUAGES OF THE ORDER

Article 9

The official languages of the Order are Spanish, French, English and Italian.

TITLE VI

THE MEMBERS OF THE ORDER – THE CITIZENS

Article 10

1. The members of the Order, appointed by Magisterial Legislative Decree, are the professed knights of justice, knights and ladies of Honour and Devotion and knights and ladies of Magisterial Grace.

2. The professed knights of justice are priests of Churches of Christian origin or formation.

3. The non-professed knights of justice take a simple vow of obedience.

4. The knights and ladies of Honour and Devotion are those who can show evidence of nobility on the paternal or maternal side.

5. The knights and ladies of Magisterial Grace are those who do not take vows and are prepared to commit themselves to serve the Order for the achievement of its ends, do not show evidence of nobility and are admitted by reason of meritorious actions with the Order in the observance of its purposes.

6. The knights and ladies are citizens of the Sovereign Constantinian Order of Cappadocia.

Article 11

1. The non-professed knights of justice, the knights and ladies of Honour and Devotion and the knights and ladies of Magisterial Grace are, by right, citizens of the Sovereign Constantinian Order of Cappadocia.

2. Citizenship is granted and withdrawn in accordance with the forms and in the terms established in the law.

Article 12

1. Citizenship is granted, by Magisterial Legislative Decree, to those individuals who apply for it, have already reached eighteen years of age and have no criminal record.

2. All the citizens have equal social dignity and are equal before the Law, without distinction of sex, race, language, religion, political opinions or personal or social conditions.

Article 13

The Grand Master, in serious or urgent cases, by reasoned Magisterial Legislative Decree, having heard the Governing Council, can suspend the exercise of the citizen's rights until a firm judgement is given by the Magisterial Court of the Order.

TITLE VII

THE GRAND MASTER

Article 14

1. The Grand Mastership is hereditary to the successors of His Serene Highness Prince Rafael Andújar y Vilches, born in Melilla, Spain, on 20 December 1946.

2. Succession in the post of Grand Master will follow the regular order of male primogeniture, always preferring the earlier line to the later, and in the same line the closer degree to the more remote.

3. The Heir Apparent to the post of Grand Master, or from the moment when there occurs the fact that gives place to this qualification, will hold the title of Prince, with courtesy title of Serene Highness.

4. Should all the lines legitimated by the Constitution be extinguished, the Council of State will proceed to elect the Grand Master from among the knights who profess vows of poverty and chastity.

5. The Magisterial Legislative Decrees have the force of law, so that they do not need to be converted into law by the Council of State.

6. The Grand Master comes of age on reaching twenty-five years of age.

7. The post of Grand Master is for life.

8. Those persons who have a right of succession to the post of Grand Master and have married against express prohibition by the Grand Master or the Council of State, will be excluded from succession to the post of Grand Master for themselves and for their descendants.

9. The consort of the Grand Master will bear the title of Princess, and the courtesy title of Serene Highness.

Article 15

The Grand Master legitimately has the sovereign prerogatives linked to *Jus Majestatis* and *Jus Honourum*, with the power to grant, renew and recognize noble coats of arms, honorary and knightly titles, noble titles, with or without predicate, transmissible and not transmissible, of prince, duke, marquis, count, viscount, baron, lord, gentleman, noble and patrician.

Article 16

The courtesy titles of Don and Doña, by concession of the Grand Master, correspond to the titles of prince and duke.

Article 17

The person of the Grand Master is inviolable and is not subject to liability. The assignment and endowment of the Grand Master are determined by law.

Article 18

The Secretary of State who proposes them will endorse all the actions of the Grand Master.

Article 19

1. The Grand Master is not responsible for actions carried out in the exercise of his functions, except in the cases of high treason or attempts on the Constitution.
2. In those cases, the Council the State will formulate an accusation against him.

Article 20

1. The functions of the Grand Master, when he cannot exercise them, will be exercised by the President of the Council of State.
2. In the case of permanent impossibility of the Grand Master, the Heir Apparent, should he have come of age, can exercise the powers of regent until the Grand Master's full recovery.

Article 21

The Grand Master, before exercising his functions, in a solemn ceremony and in the presence of the highest posts of the Order, will take the following oath before the Grand Chaplain: "*I solemnly promise and swear, on this most sacred piece of the Cross and on the Holy Gospels of God, to keep loyally the Constitution of the Sovereign Constantinian Order of Cappadocia and its laws, and to direct conscientiously the activities of the Order. So help me God!*"

Article 22

1. The post of Grand Master is incompatible with the exercise of any other post in the Order.

2. The Grand Master can send messages to the Council of State.

3. He authorises the presentation to the Council of State of bills for law at the instance of the Governing Council.

4. He promulgates the laws and dictates Magisterial Legislative Decrees, with the force of law, and regulations.

5. He appoints the officials of the Order.

6. He sends and receives diplomatic representatives.

7. He ratifies international treaties on authorization from the Council of State.

8. Having heard the Governing Council, and by Magisterial Legislative Decree, he grants the honours of the Order of Merit of the Sovereign Constantinian Order of Cappadocia, and of the other orders constituted.

Article 23

1. The Grand Master, having heard the criteria of the President of the Council of State, can dissolve the Council of State.

2. The powers of the body thus dissolved will be deferred until it is constituted again.

TITLE VIII

THE COUNCIL OF STATE

Article 24

1. The exercise of the legislative function is for the Council of State.

2. The number of Councillors of State is twelve, of whom eight are of magisterial appointment, by Magisterial Legislative Decree, and four are elected by the citizens.

3. The Council of State remains in office for five years.

Article 25

The Council de State, through the relevant law, empowers the Grand Master for the ratification of international treaties.

Article 26

1. The Council of State, within six months counting from the year-end, approves the balance sheet and the rendering of definitive accounts, presented by the Governing Council.

2. Laws which involve new or greater expenses must indicate the means to meet them.

3. The balance sheet of the State must show solvency.

Article 27

1. The Council of State can delegate to the Grand Master the exercise of the legislative function for certain questions, for a limited time and for defined purposes.

2. The Council of State can approve, by majority, a question of confidence on the action of the Governing Council or of the Secretaries of State considered individually.

3. Should the question of confidence of the Governing Council prosper, the First Secretary of State will present to the Grand Master the resignation of the whole of the cabinet.

Article 28

1. The Grand Master promulgates the laws within eight days following their approval.

2. When the Council of State, by majority, declares the urgency of a law, it can be promulgated within the term established in it.

3. The laws must be published in the Official Gazette of the Sovereign Constantinian Order of Cappadocia, and will come into force on the same day of their publication.

Article 29

The Grand Master, before proceeding to promulgation of a law, can require fresh deliberation by the Council of State.

Article 30

1. The Council of State, with the authorization of the Grand Master or at his requirement, can order investigations into certain matters.

2. To that end, the Council of State will appoint a committee for the purpose from among its members.

TITLE IX

THE GOVERNING COUNCIL

Article 31

1. The Governing Council is presided over by the Grand Master.

2. The Governing Council is formed of the Grand Master, the First Secretary of State, the Secretary of State of the Treasury, the Secretary of State for Foreign Affairs, the Secretary of State of the Interior, the Secretary of State of Justice, the Secretary of State of Solidarity and the Secretary of State of Health.

3. The First Secretary of State exercises his functions under direct dependence on the Grand Master.

4. The Grand Master, by Magisterial Legislative Decree, appoints and dismisses the Secretaries of State.

5. The Secretaries of State, before taking up their posts of government, will take an oath between the hands of the Grand Master.

6. The Secretaries of State have the status of Ministers.

Article 32

1. The Governing Council is invested with the broadest powers for ordinary and exceptional management of the Order, without any limitation, with power to carry out all those actions which are understood as appropriate for the achievement of the Order's ends, excluding those which the Constitution imperatively reserves to the Council of State, the Constitutional Court or the Court of Accounts.

2. Therefore, the Governing Council is empowered to acquire, sell or exchange chattels and real estate; contract loans, guarantee them with mortgages over the Order's assets; permit the practice of cancellations and mortgage annotations; cancel legal mortgages and exempt the property registrars from all responsibility; concede and reach

compromises with arbitrators and even with referees; open and close bank and financial accounts and carry out all kinds of transactions with lending entities and financial companies.

3. The Grand Master is empowered to appoint directors and attorneys *ad negotia* for specific actions or types of actions.

4. The Grand Master has the power of veto over all the activities of the Secretaries of State.

5. The agreements of the Governing Council acquire executive force by Magisterial Legislative Decree.

Article 33

The decrees *motu proprio* of the grant or withdrawal of honours and noble titles must be endorsed by the First Secretary of State, and need not be converted into law.

Article 34

1. The Grand Master, in cases of necessity and urgency, promulgates the law decrees approved by the Governing Council.

2. The law decrees must be converted into law within twelve months counting from their promulgation.

TITLE X

THE COURT OF ACCOUNTS

Article 35

The Court of Accounts supervises and controls the expenses of the global heritage of the Order.

Article 36

1. The Court of Accounts is formed of five members.

2. The Grand Master appoints three members by Magisterial Legislative Decree, and the other two are elected by the Council of State.

3. The President of the Court of Accounts is appointed, by Magisterial Legislative Decree, by the Grand Master.

4. The Vice-President and the Secretary are elected, by absolute majority of its members, by the members of the Court of Accounts.

5. The members of the Court of Accounts hold their posts for a term of five years and must have training in the financial, economic and legal fields.

TITLE XI

THE MAGISTERIAL CONSTITUTIONAL COURT

Article 37

The Magisterial Constitutional Court hears disputes relating to the constitutional legitimacy of the laws and accusations formulated against the Grand Master and against the Secretaries of State.

Article 38

The Magisterial Constitutional Court is formed of six members, appointed, two thirds by the Grand Master, by Magisterial Legislative Decree, and one third by the Senate of State.

Article 39

1. The magistrates of the Magisterial Constitutional Court are elected from among the magistrates of magistrates' courts, university professors and lawyers registered in the Registers of the Order.

Article 40

The constitutional magistrates remain in their posts for a term of five years.

Article 41

1. The President of the Magisterial Constitutional Court is appointed, by Magisterial Legislative Decree, by the Grand Master.

2. The Vice-President and Secretary are elected by absolute majority.

TITLE XII

THE DEPARTMENTS OF THE ORDER

Article 42

1. The departments of the Order are regulated in accordance with the provisions dictated by the Grand Master by Magisterial Legislative Decree.

2. The Departments Regulation establishes the fields of competence, attributions and responsibilities of the relevant employees and officials.

TITLE XIII

THE MAGISTRACY AND THE

UPPER COUNCIL OF THE MAGISTRACY

Article 43

1. Justice is administered in the name of His Serene Highness Prince Grand Master.

2. The judges are subject to the law.

Article 44

1. The Grand Master presides over the Upper Council of the Magistracy of the Order, composed of five members.

2. The Grand Master appoints, by Magisterial Legislative Decree, three members of the Upper Council of the Magistracy, and the other two are elected by the Council of State.

3. The Upper Council of the Magistracy remains in office for five years.

TITLE XIV

THE JUDICIAL ORDER

Article 45

The Magisterial Courts exercise the jurisdictional function in accordance with the codes and laws of the Sovereign Constantinian Order of Cappadocia.

Article 46

The Grand Master, on a proposal by the Governing Council and by a Decree Law, appoints the Presidents, Magistrates and Chancellors of the Magisterial Courts.

Article 47

1. The Magistrates of the Magisterial Courts, elected among the citizens of the Order especially expert in law, are appointed for an open-ended term and can be dismissed by the Grand Master by Magisterial Legislative Decree, having heard the Governing Council.

Article 48

The Judicial Order and proceedings before the Magisterial Courts are regulated by the procedural codes of the Order.

TITLE XV

REVISION OF THE CONSTITUTION

Article 49

1. The laws revising the Constitution and other laws of a constitutional nature can be amended by the Council of State, with a majority of two thirds of its members.
2. The Grand Master has a right of veto over laws of constitutional revision.

FINAL AND TRANSITIONAL PROVISIONS

I – With the entry into force of the Constitution, H.S.H. Prince Rafael Andújar y Vilches, Spanish citizen, born in Melilla, Spain, on the twentieth of December 1946, resident at Calle Golf de Botnia, 8 - 08198 Sant Cugat del Vallès, Barcelona, Spain, exercises the attributions of Grand Master and takes up this title, with the courtesy title of Serene Highness.

II – The Grand Master will exercise the powers of the Governing Council and the Council of State for a maximum period of three years. During this period, the Grand Master is invested with the broadest powers for the ordinary and exceptional management of the Order, without any limitation, with the power to carry out all those actions which are understood as appropriate for the achievement of the purposes of the Order; he is empowered to acquire, sell or exchange chattels and real estate; contract loans, guarantee them with mortgages formed over the Order's assets; permit the practice of cancellations and mortgage annotations; cancel legal mortgages and exempt property registrars from all responsibility; concede and reach compromises with arbitrators and even with referees; open and close banking and financial accounts and carry out all kinds of transactions with lending entities and financial companies which are understood as useful and necessary for the achieving of the purposes of the Order; he is empowered to appoint directors and attorneys *ad negotia* for specific actions or types of action. The Grand Master holds the legal representation of the Order before third parties and in court, with the power to exercise all kinds of actions and claims, both judicial and administrative, in any degree of jurisdiction, even in procedures of review and cassation, and to appoint lawyers and procurators for trials.

III – The first balance sheet of the Order is closed on 31 December 2013.

IV – The Grand Master will present to the Council of State the first rendering of definitive accounts within six months counting from the closure of the first balance sheet of the Order.

V – The Magisterial Constitutional Court must be constituted within five years counting from the date of constitution of the Order. Until that date, the Court of Accounts will exercise its attributions.

VI – The first Council of State must be constituted, only with members of magisterial appointment, within three years from the promulgation of this Constitutional Charter and will be in office for five years.

VI – The first Upper Council of the Magistracy must be constituted, only with members of magisterial appointment, before 31 December 2014, and will be in office for five years.

VI – The first Court of Accounts must be constituted, only with members of magisterial appointment, before 31 December 2013, and will remain in office for five years.

IX – Until the coming into force of the Order's codes reference will be made, to the degree that this is compatible with the Order's ends, to the codes of the Principality of Andorra or of any other neutral State.

X – Until the date of constitution of the Council of State and the Court of Accounts, there can be no amendment to this Constitution. From that date the Constitution can be amended in the form and in the terms established in article 48 of the Constitution.

XI – The Grand Master of the Sovereign Constantinian Order of Cappadocia is the proprietor, in full and exclusively, and with effect from the promulgation of Magisterial Legislative Decree no. 1, of 22 August 2012, of the titles and shields of heraldic arms indicated hereunder: a) The sovereign title of Prince of Cappadocia, with courtesy title of Serene Highness; b) The sovereign title of Byzantine Patrician of the Eastern Holy Roman Empire; c) The imperial arms of the Imperial Constantinian Order Cappadocia, blazoned as follows: "*Gules, a lion outlined, crowned in the traditional style and wound about gules all of or, united to the two headed eagle of the Eastern Roman Empire. Surmounted by a crown of pretension to the Byzantine empire, with four jewelled lappets pendant; surrounded by the Grand Collar of the Constantinian Order of Cappadocia. Motto LASCARIS FIDELITAS.*"; d) The arms of the Prince of Cappadocia which are blazoned below: "*Purple with the two-headed*

eagle of the Eastern and Western Roman Empire, crowned in the Byzantine style, resting its claws on the sceptre and the globe, all or, yoked to the mantle of the imperial prince gules lined ermine and finished by a royal crown."

XII – This Magisterial Legislative Decree, stamped with the seal of the Sovereign Constantinian Order of Cappadocia, will be incorporated into the "Official Compilation of Laws, Magisterial Legislative Decrees and Magisterial Law Decrees of the Sovereign Constantinian Order of Cappadocia".

XIII – The Constitution of the Sovereign Constantinian Order of Cappadocia comes into force on the day of its promulgation.

E) – Resolves and declares, that the Sovereign Constantinian Order of Cappadocia, in accordance with the terms of article 2, section three, of its Constitution, legitimately constitutes an ordinance the purpose of which is the assurance of peace and justice among Nations.

F) – Resolves and declares, that the Sovereign Constantinian Order of Cappadocia, as a sovereign ordinance, cannot be the subject of the criminal rules of Italian Law no. 178, of 3 March 1951 and that, consequently, the Order of Merit of the Sovereign Constantinian Order of Cappadocia is an order of merit pertaining to a subject of International Law, in all ways identical to a foreign State.

G) – Resolves and declares, that the activities of a hospital and care nature carried out by the Sovereign Constantinian Order of Cappadocia in the territory of the Italian Republic, in accordance with article 11 of the Italian Constitution and in judgement no. 193 of the Italian Constitutional Court, of 28 June 1985, do not need to be authorized by the Italian Government.

H) – Resolves and declares, that the Sovereign Constantinian Order of Cappadocia has the right of active and passive legation, in accordance with the general rules of International Law.

I) – Resolves and declares, that the Sovereign Constantinian Order of Cappadocia, as a subject of International Law, equivalent to a foreign State, has the right: a) To immunity of jurisdiction, that is to say, the sovereign immunity which prevents individuals from summonsing subjects of International Law before national judges; b)

TIMBRE DEL ESTADO

CLASE 8.ª

0,03 EUROS TRES CÉNTIMOS DE EURO

0M3290125

JOSEP PEÑAROJA FA TRADUCTOR OFICIAL

To taxation immunity, in relation to assets of a heritage nature which contribute to the undertaking of the natural functions of the activities carried out by the international body; c) To diplomatic immunity, in the forms and terms established by the Vienna Convention of 1961.

L) – Resolves and declares, that the resolutions dictated by the courts of the Sovereign Constantinian Order of Cappadocia have the nature of judicial resolutions of a foreign State.

M) – Resolves and declares, that His Serene Highness, Prince Don Rafael Andújar Vilches, whose personal details have already been set out, and his legitimate successors in the post of Grand Master of that Sovereign Order, take the legal classification of material subjects of International Law when they act, by virtue of internal rules, in the name, for the account and in the interests of the Sovereign Constantinian Order of Cappadocia.

N) – Resolves and declares, extinguished by prescription, in accordance with what is established in article 2934 of the Italian Civil Code, the rights not exercised until 17 October 2002, of the heirs of Marziano Lavarello, who was born in Rome on 17 March 1921 and died in that city on 17 October 1992, over the Imperial Constantinian Order of Cappadocia, over the titles of Prince of Cappadocia, Byzantine Prince of the Eastern Holy Roman Empire, over the imperial arms of that dynastic Order and over the arms of the Prince of Cappadocia.

O) – Decrees, the execution of this judgement, which has the effects proper to judgements dictated by the judicial authorities of the Italian Republic, in accordance with the terms of article 824 bis of the Civil Procedure Act, in the territory of the States party to the New York Convention, of 10 June 1958, valid in Italy in virtue of the terms of Law number 62, of 19 January 1968, in the forms and in the terms envisaged in International Law, and for the account and charge of the interested party.

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

P) – Orders, to the Upper Institute of Nobility Law of Ragusa, payment of the expenses and fees due in execution of the convention formalised on 1 September 2012, between the Public Prosecutor General of the European Court of Arbitral Justice of

TIMBRE DEL ESTADO

CLASE 8.ª

0,03 EUROS TRES CÉNTIMOS DE EURO

OM3290124

JOSEP PEÑAROYA FA TRADUCTOR OFICIAL

Ragusa and H.S.H. Prince Don Rafael Andújar Vilches, in accordance with the terms of section o) of that convention.

Q) – Orders, to the Public Prosecutor General of the European Court of Arbitral Justice of Ragusa to proceed to the publication, under the responsibility of the Upper Institute of Nobility Law and for its account, in the Official Gazette of the Sicilian Region, of an authentic extract of the original of this judgement, now firm, with indication of the corresponding Decree of Firm Judgement issued by the Judge of the Ordinary Court of Modica, in accordance with the terms of article 825 of the Civil Procedure Act.

Given in Modica, on 30 October 2012

1. Lawyer Michele Dell'Agli	**President**
2. Lawyer Gianluca Gulino	**Judge**
3. Lawyer Giovanni Mangione	**Judge**

Attached are:

1) Original of the compromise formalised on 1 September 2012, registered in the Alcamo Delegation of the Taxation Agency – Trapani Office, on 6 September 2012, at number 4741, series 3;

2) Original of the agreement formalised on 7 September 2012, between the Public Prosecutor General of the European Arbitral Court of Justice of Ragusa, represented by the Deputy Public Prosecutor, Doctor Alessandro Rappa, whose personal details have been set out above, and Doctor Rosario Salvatore Migliaccio, in her position as delegate of H.S.H. the Prince Don Rafael Andújar Vilches;

2) Document of acceptance of the arbitral mandate;

3) Grant of delegation for the actions of investigation.

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA TRIBUNALE CIVILE INTERNAZIONALE

TIMBRE DEL ESTADO

0M3290123

CLASE 8.ª

Given in Modica on 30 October 2012

Lawyer Michele Dell'Agli — **President**

Lawyer Gianluca Gulino — **Judge**

Lawyer Giovanni Mangione — **Judge**

Judgement deposited
on 10 November 2012
in the Secretariat
of the European Court of
Arbitral Justice of Ragusa.
The Secretary
The Hon. Doctor Pietro Mineo

CORTE EUROPEA DI GIUSTIZIA ARBITRALE DI RAGUSA
PROCURA GENERALE

JOSEP PEÑARROJA FA TRADUCTOR OFICIAL