

*La responsabilità degli Stati membri per la violazione del diritto comunitario.* By LUIGI FUMAGALLI. [Milan: Giuffrè Editore. 2000. xvi + 360 pp. ISBN 88-14-08013-5. L. 48,000 (Euro 24.79)]

THE last few years have witnessed a renewed interest by Italian scholars in proceedings before the European Court of Justice, with a number of studies being published about, *inter alia*, the Court of First Instance, the art. 234 EC preliminary reference procedure and the action for annulment under art. 230 EC. The publication of this book is to be welcomed, as it complements the existing works in the field with an exhaustive study of the liability of the Member States for failure to comply with their obligations under Community Law.

The book is divided into two parts. The first part is concerned with the infringement procedure, which may be initiated by the Commission (art. 226 EC) or by a Member State (art. 227 EC) against another Member State for a violation of Community law. The procedures laid down in the said articles are thoroughly described, and so are the nature and structure of the Court's judgment and the sanctionary measures it may decide under art. 228 EC in case of further non-compliance by the Member State.

The second part of the book deals with the protection offered by the domestic legal orders of the Member States, which flows from the principles laid out by the Court in the *Franco* judgment and subsequent case-law, concerning the assessment by national courts of the Member States' liability for damages.

The author's conclusion is that, despite the difference in both substance and procedure, the two sets of remedies appear to be nothing but complementary aspects of a single system of protection of the Community legal order against any violations by the Member States. What is more, such remedies are to be drawn from (and only from) Community law, thus ruling out all measures of self-defence normally available to States under international law. The Community represents therefore a complete and autonomous system within the international legal order, providing for specific rules for the enforcement of its provisions that differ from those traditionally offered by international law in case of non-compliance with treaty provisions.

The author is to be commended for his exhaustive and detailed study, which is completed by extensive footnotes, accurately reporting on legal theories, the state of the legislation and the most recent case-law. His book would be useful both to academics involved in the study of EC institutional law and to those practitioners wishing to expand their knowledge of the implications of the *Franco* case-law on domestic law, although his analysis is regrettably

but understandably limited to the issues raised by the impact of the Court's approach on the Italian legal order.

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