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Law in a Changing Economy and Society – Italy, the Late Nineteenth and Early Twentieth Centuries: The Birth of Academic Legal Knowledge

1. Commercial Law in Post-Unification Italy

The nineteenth century opened for Italian commercial law under the banner of the transfer and transposition of French norms. During the Risorgimento, the French influence prevailed, notwithstanding a discrepancy between the legislative choices of the two countries in the mid-nineteenth century. At that juncture, the pre-unification Italian commercial codes remained unresponsive to the reforms enacted in France and, instead, they adhered to the original version of the Code de Commerce of 1807.¹

The disparity between the Italian pre-unification laws and the French reforms can be attributed to the divergent temporal trajectories of industrialisation. In Italy, the agricultural and manufacturing sectors have historically exerted a preeminent influence over a more protracted period. The level of development of trade relations was also divergent: the former Italian states had not committed themselves to the creation of an internal market prior to the achievement of national unity.²

Following the unification of Italy in 1861, the newly formed Kingdom of Italy remained more economically and commercially fragmented than ever before. Furthermore, the issue of commercial legislation was not addressed to the extent that it ought to have been. It is indeed the case that the law of 2 April 1865 on the unification of legislation, which sanctioned the entry into force of the unified civil code, also promulgated a commercial code. However, it was not a new text, but rather the commercial code of 1842 of the Kingdom of Sardinia, the Italian pre-unification state

¹ A. Padoa-Schioppa, “Il diritto commerciale italiano” [in:] *idem, Italia ed Europa nella storia del diritto*, Bologna 2003, pp. 533–563.

² A. Monti, “The Italian Destiny of the French Code de commerce” [in:] *Modernisation, National Identity and Legal Instrumentalism*, vol. 1: *Private Law*, eds. M. Gałędek, A. Klimaszewska, Leiden 2020, pp. 111–142.

which led the unification of the country. The Sardinian commercial code was amended with some modifications in order to be extended to the whole of Italy.³

This first Italian commercial code, which came into effect on 1 January 1866, was the outcome of a compromise within the ruling class of the Risorgimento. On one side were the governing majority, who were exponents of a landed aristocracy and who had little interest in trade. On the other side were those who, in contrast, saw an opportunity to invest in trade legislation. This was despite the fact that the country's economy was in a pre-industrial phase; it was mainly focused on the agricultural sector, and numerous obstacles stood in the way of the creation of a domestic market.

The *corpus* of its rules was divided into four books, and applied to commercial acts, in accordance with the architecture of the Napoleonic codification. Furthermore, the commercial code was positioned alongside the civil code of 1865, in a parallel analogous to the relationship between the Code de commerce and the Code civil in France.⁴

In the period preceding a season of growth in commercial life, economic relations, and entrepreneurship (which had already been fully expressed outside Italy), the first national commercial code was, therefore, inadequate. The most evident critical features emerged in the sectors most involved in the process of economic development, that is, bills of exchange and company law.⁵

At the end of the Third War of Independence (1866), when the Veneto provinces were annexed to the Kingdom of Italy, the extension of the commercial code to the new territories immediately gave rise to a number of issues. In Veneto, Austria had implemented the German exchange law of 1848 and the German commercial code of 1861, which were regulations designed to satisfy the requirements of the emergent capitalist class.⁶

Consequently, in 1869, a provisional entry into force of the commercial code was arranged in the annexed provinces, while the exchange law was left in force. Concurrently, the government mandated a special commission to effect amendments to the 1865 text, with a view to a comprehensive revision of Italian commercial law.

1.1. The Renewal of Italian Commercial Law: The Code of 1882

The protagonist of the reform of Italian commercial law was Pasquale Stanislao Mancini (1817–1888), an important representative of the jurists of the Risorgimento. He was well known also outside Italy for his theses on the principle of nationality as the foundation of international law and for being one of the promoters of the foundation of the *Institut de droit international* in Ghent.

³ A. Aquarone, *L'unificazione legislativa e i codici del 1865*, Milano 1960.

⁴ *Codice di commercio del Regno d'Italia*, Torino 1865.

⁵ A. Padoa-Schioppa, "Disciplina legislativa e progetti di riforma delle società per azioni in Italia (1862–1942)" [in:] *idem, Saggi di storia del diritto commerciale*, Milano 1992, pp. 205–259.

⁶ F. Mazzarella, "Kingdom of Italy (1861–1946)" [in:] *Das ADHGB von 1861 als gemeinsames Obligationenrecht in Mitteleuropa*, eds. M. Löhnig, S. Wagner, Tübingen 2018, pp. 305–337.

The preparatory work on a new code commenced under his direction in 1869 and continued for a period of thirteen years. During this time, the project underwent various phases and was the subject of extensive debate. The work was enriched by the contributions of individual members of the drafting and revision commissions, who represented a diverse range of backgrounds. These members included politicians, lawyers, senior magistrates, representatives from the commercial and financial business world, and a few professors. These individuals were invited from various geographical areas of the country to serve as representatives of the nation as a whole.⁷

The contentious subjects that dominated the debates reflected the legislator's sense of uncertainty in the face of the rapid transformation of economic and social life. The construction of the first railroads and the establishment of telegraph networks occurred concurrently with the onset of the industrial revolution in Italy.

An examination was conducted into foreign laws and the legal systems of already industrialised countries that were more advanced in commercial matters. The English world was seen to demonstrate particular strength in company and insurance matters, while the German world was noted for its foreign exchange system and transport. France was identified as a nation that had innovated in the fields of intellectual, literary and artistic property, the law of inventions, company law, and the insurance sector over the previous thirty years, as was shown by the implementation of special legislation.⁸

The text was completed in the autumn of 1882 and came into force on 1 January 1883. The new Italian commercial codification has original characteristics and marks a turning point in legislative and doctrinal terms. The drafters of this legislation were well-versed in business practice and possessed extensive political experience.⁹ They meticulously adhered to the French commercial codification, ensuring that the criteria for the application of the legislation, specifically acts of commerce, were clearly defined. This approach was instrumental in facilitating the identification of traders within the commercial landscape. However, with regard to various aspects concerning the scope and content of the codified rules, close attention was paid to the more modern options of German commercial legislation. There were many choices for the drafters of the legislation.¹⁰

The 1882 code is divided into four books, following the partition inaugurated by the Code de commerce in 1807. The first book is dedicated to commerce in general, and German influence is evident from the outset. Private law rules are subordinate to commercial law, which serves as the primary source in commercial affairs. In addition,

⁷ See: A. Padoa-Schioppa, "La genesi del codice di commercio del 1882" [in:] *idem, Saggi...*, pp. 157–203.

⁸ F. Mazzarella, *Un diritto per l'Europa industriale. Cultura giuridica ed economia dalla rivoluzione francese al secondo dopoguerra*, Milano 2016, p. 50 ff.

⁹ See: R. Braccia, *Un avvocato nelle istituzioni. Stefano Castagnola giurista e politico dell'Italia liberale*, Milano 2008.

¹⁰ R. Teti, *Un diritto per gli imprenditori. Il diritto commerciale dalle codificazioni ottocentesche al codice civile del 1942*, Roma 2018, pp. 39–75.

it is crucial to acknowledge that customs hold primacy over civil law, thereby re-establishing their function as an unwritten reservoir for normative production.¹¹

In the first book of the 1882 code, the regulation of commercial contracts and obligations is encompassed. This body of law exists in parallel with civil law regulation. In this regard, an ongoing discourse surrounded the duplication of codes of obligations and contracts: the civil code applied to civil contracts; the commercial code applied to commercial contracts and unilaterally commercial contracts. The commercial code differed not a little in its regulatory choices. In instances where a lacuna existed within the framework of commercial law, customary practices superseded it, and in instances where this was not applicable, civil law was invoked.¹²

The Commercial Code of 1882 was a pivotal instrument in the industrial and capitalist development of Italy during the late nineteenth and early twentieth centuries. Following the entry into force of the new legislation, a number of targeted projects and special reform laws were initiated, particularly in the areas of corporate and bankruptcy matters. However, it was not until after the First World War that it underwent a comprehensive revision, a process that took twenty years and resulted in the renunciation of a separate commercial code and the adoption of a unique civil code in 1942.¹³

2. The Emergence of an Italian Commercial Law Doctrine

The unification of Italy in 1861 signalled the formation of a nation that was in the process of building itself, with the aim of formulating its own academic knowledge and its own Italian academic and secular culture. Italian jurists, lawyers and professors undoubtedly contributed greatly to unitary codification. The codification of laws catalysed the energies of jurists and promoted a feeling of national belonging.

In the domain of commercial law, the 1882 code signifies a pivotal juncture, marking the establishment of a national legal doctrine, albeit one that, however, lacks academic pedigree. The aforementioned commissions, which were entrusted with the preparatory work, were made up of legal practitioners and learned jurists, but not of academics, with the exception of a small number of individuals.¹⁴

It was in the aftermath of unification that the Italian university evolved into a crucible in which commercial law scholars endeavoured to establish an autonomous academic discipline within the domain of commercial law, a field historically intertwined with the dynamics of trade and business. Indeed, it was within the institutions of higher

¹¹ *Codice di commercio del Regno d'Italia*. Preceduto dalla Relazione a S.M. del ministro Guardasigilli G. Zanardelli pubbl. con r. d. in data 31 ott. 1882, n. 1062, s. 3, Milano 1882.

¹² A. Monti, "La fabrique du droit commercial. Les usages de commerce en Italie à l'aube du XX^e siècle," *Revue historique de droit français et étranger* 2021, vol. 99, issue 2, pp. 181–197.

¹³ R. Teti, *Codice civile e regime fascista. Sull'unificazione del diritto privato*, Milano 1990.

¹⁴ A. Padoa-Schioppa, "La genesi del codice..." p. 160 ff.

learning across the unified Italian territories that nascent national legal scholarship came into being.¹⁵

In their work, Italian academics show an intellectual openness to the doctrines and practices of the rest of Europe. Their research encompasses the reading, appreciation, and translation of the works of foreign jurists. It is evident that they exhibit a discerning comprehension of economic realities, which are in a state of constant evolution and refinement. They engage in the analysis of newly codified commercial law and do not hesitate to raise critical voices. Furthermore, they participated in the reforming legislative commission.¹⁶

Concurrently, between the nineteenth and twentieth centuries, the initial repercussions of industrialisation were also experienced in Italy, prompting legal experts to address and attempt to resolve novel challenges. In a society transformed by industrial production and technological innovation, there was a need to redefine the tasks of law and its professionals. In this context, big business, consumers, and workers assumed a prominent role. The relevant context was much broader than a national one: new ideas were being experimented with, circulating on the European continent, across the Channel, and further overseas.¹⁷

In summary, in the final decades of the nineteenth century, a group of scholars at Italian universities engaged with the issue of the interpretation of national codes in the context of the advent of an industrial society. They appropriated theories from Germany that were in circulation at a European level, some of which were already known, and put them into practice. In doing so, they sought to renew the legal method in various fields of law, including public, private and procedural law.¹⁸

It is in this context that law professor Cesare Vivante (1855–1944) emerges as a key figure in the field of commercial law, with his polemic against the commercial code and, most notably, his “Treatise on Commercial Law,” published from 1893 onwards.¹⁹

2.1. The Vivante Era

In 1888, Cesare Vivante delivered a lecture in Bologna entitled “Per un codice unico delle obbligazioni” (For a single code of obligations) that aroused wide interest. In this

¹⁵ The formation of the new state and its ruling class was characterised by the pivotal role attributed to the university. See: I. Porciani, M. Moretti, “La creazione del sistema universitario nella nuova Italia” [in:] *Storia delle Università in Italia*, vol. 1, eds. G.P. Brizzi, P. Del Negro, A. Romano, Messina 2007, pp. 323–379.

¹⁶ See the collective volume “Non più satellite”. *Itinerari giuscommercialistici tra Otto e Novecento*, ed. I. Birocchi, Pisa 2019.

¹⁷ A. Monti, “Form, Size, ‘Governance’. Remarks on Italian Late 19th Century Companies” [in:] *The Company in Law and Practice: Did Size Matter? (Middle Ages-Nineteenth Century)*, eds. D. De Ruyscher, A. Cordes, S. Dauchy, H. Pihljamäki, History of Private Law Series, Leiden 2017, pp. 203–218.

¹⁸ P. Grossi, *Scienza giuridica italiana. Un profilo storico*, Milano 2002, p. 94 ff.

¹⁹ A. Sciumè, “Cesare Vivante” [in:] *Enciclopedia italiana: Il contributo italiano alla storia del pensiero. Diritto*, Roma 2012, pp. 446–450; M. Libertini, “Vivante, Cesare” [in:] *idem, Passato e presente del diritto commerciale*, Torino 2023, pp. 265–271; F. Mazzarella, “Vivante, Cesare” [in:] *Dizionario Biografico degli Italiani*, vol. C, Roma 2020, pp. 31–35.

work, he vehemently criticised the recently enacted Italian commercial code of 1882, perceiving it as a class- and partisan-based code.²⁰

In his opinion, the code only encompassed the rules created by big business to protect its own interests. It did not protect third parties, especially those in a weak contractual position, whom Vivante called “the consumers.” This was an unusual term at the time. He also includes workers among consumers, referring to them as subjects in a weak contractual position. These reflections, tinged with social solidarity, echoed the political sentiment of nascent socialism.

His rigorous critique then encompassed the regulation of “mixed” acts, that is to say, unilaterally commercial contracts, to which the provisions of commercial law had to be applied, as stipulated in the commercial code of 1882. The proposal entails the formulation of a single code of contracts and obligations, which would address the issues associated with the duality of codes in Italy, namely the civil and commercial codes. Vivante’s reference was to the recent Swiss *Obligationenrecht* of 1881, which came into force in 1883.

In his opinion, the establishment of a single code of obligations would serve to modernise civil law and enhance the robustness of commercial law, particularly from an academic perspective. Moreover, the single code was conceived with the intention of safeguarding commercial interests, as well as those of consumers. On this point, Vivante expressed a positive outlook on the ability of social partners to spontaneously and dialectically resolve their conflicts in the interest of collective solidarity.

As Vivante’s thinking evolved, his perspective underwent a transformation, giving rise to a progressive distrust of the liberal economic system and the legal system’s capacity to safeguard the general interest by empowering individuals to pursue their own interests.

The issue of a single code of obligations was a long-standing one, and was widely debated, from the early twentieth century until the end of the Fascist period. However, in Italy, it was only resolved at a legislative level with the Civil Code of 1942, which finally unified the discipline of obligations and contracts.²¹

Vivante’s vision transcended national boundaries, resonating beyond the confines of Italy. In France, the *Annales de droit commercial* published an essay of his on the subject in 1893.²²

In that same year, 1893, the first volume of the treatise entitled “Trattato di diritto commerciale,” dedicated to Levin Goldschmidt, was published. In the preface, Vivante outlines his endeavour to rethink the legal system through a close examination of extant laws and customs, transforming the study of written laws into an exercise

²⁰ C. Vivante, “Per un codice unico delle obbligazioni. (Prolusione al Corso di diritto commerciale letta nell’Università di Bologna),” *Archivio giuridico* 1887, vol. 39, pp. 497–516.

²¹ M. Caravale, “Perché mai il diritto privato è ancora diviso in due campi, il civile e il commerciale? La polemica sul Codice di commercio nell’Italia liberale” [in:] C. Angelici et al., *Negozianti e imprenditori. 200 anni dal Code de commerce*, Milano 2008, pp. 81–116.

²² C. Vivante, “Un code unique des obligations. Histoire et Polémique,” traduit et annoté par V. Yseux, *Annales de droit commercial* 1893, pp. 1–23.

of observing reality.²³ In order to study mercantile practice and to construct, within a historical dimension, the system of commercial law, Vivante drew upon his study of German masters, his sensitivities to philosophical positivism, his historical studies, and his openness to the emerging social sciences.²⁴

The approach adopted by Vivante in the study of commercial law attracted the attention of numerous Italian legal scholars. Vivante's approach became part of a significant movement that aimed to develop new methods of legal interpretation and to rethink the role of jurists. This movement was evident in Italian doctrine at the turn of the century. In the context of studies of commercial law, it was with Vivante that the new scholarly method gained traction in research and teaching.

A "Vivante" school, a leading group of jurists with a broad vision of law, well equipped with historical and economic knowledge, took shape. This was also reflected in the allocation of university chairs. Within the pantheon of this Italian school of commercial law, Angelo Sraffa (1865–1937) occupies a prominent and original position.²⁵

In 1903, Sraffa and Vivante founded the *Rivista del diritto commerciale, industriale e marittimo* (Journal of Commercial, Industrial, and Maritime Law), an innovative legal periodical that was open to foreign contributions and attentive to the problems posed by economic evolution and industrialisation.

3. The Role of Law Journals

Between the nineteenth and twentieth centuries, Europe experienced a period of significant upheaval in the field of legal thought. A methodological debate was present in many areas, and this was open to dialogue with other fields of knowledge on an international level. In the domain of commercial law, as well as in the emerging and related fields of industrial and labour law, there was a marked focus on foreign law and comparative law in the broadest sense.²⁶

The intellectual vitality of the period is reflected in the legal journals that emerged during this time. It is widely acknowledged that periodical publications constitute a privileged milieu for the dissemination of legal information and the discourse surrounding legal methodology and substance.²⁷ In the various continental European countries, and notably in Italy, this discourse was compelled to engage with national codifications. The topics under discussion recurred, despite being rooted in the

²³ C. Vivante, "Preface" [in:] *idem, Trattato di diritto commerciale*, vol. 1, Torino 1893.

²⁴ Vivante's treatise had five successive editions, the last one published between 1922 and 1926, reprinted in 1929. It was appreciated internationally and translated into several languages. See: C. Vivante, *Traité de droit commercial*, traduit sur la troisième édition italienne (1907–1909) par J. Escarra, vol. 1–4, Paris 1910–1912, avec Préface de A. Wahl.

²⁵ A. Monti, *Angelo Sraffa. Un "antiteorico" del diritto*, Milano 2011.

²⁶ F. Audren, A.-S. Chambost, J.-L. Halpérin, *Histoires contemporaines du droit*, Paris 2020.

²⁷ *Juristische Zeitschriften in Europa*, eds. M. Stolleis, T. Simon, Frankfurt am Main 2006; *Juristische Zeitschriften. Die neue Medien des 18.–20. Jahrhunderts*, ed. M. Stolleis, Frankfurt am Main 1999.

needs of each country. Consequently, the search for solutions involved theoretical and practical jurists from different geographical backgrounds. From this standpoint, academic periodicals played a pivotal role in extending intellectual frontiers beyond the confines of nation-states.²⁸

Furthermore, these law journals served as crossroads for scientific networks and relations, potentially representing a significant point of aggregation for a cohort of jurists with an academic background. At a European level, these jurists were involved in the extensive tendency towards the emergence of specialisations and disciplines. Law professors and lawyers who contributed to a law review use this medium to address contemporary issues in a participatory and dialectical manner. The review was, perhaps, an academic one, yet it was also attentive to the practical side of case law.

Journals were important in Italy in the phase before the establishment of a national school of commercial law, that is, since the late 1870s. The commercial law journals published in the years following the enactment of the 1882 Commercial Code gave voice to a booming field of law. Among specialised periodicals, two journals emerged just after the new codification in 1883: the *Annuario critico della giurisprudenza commerciale* edited by Ercole Vidari²⁹ and Leone Bolaffio, and *Il diritto commerciale, Rivista periodica e critica di giurisprudenza e legislazione* founded and edited by two professors from the University of Pisa, Filippo Serafini and David Supino.³⁰

While up until the 1880s, commercial law permeated the legal periodicals in search of an autonomous academic status, at the dawn of the new century, the following topics of interest were on the rise: banking, the stock exchange, industry, subordinate labour, corporations, bankruptcy proceedings, and securities. An interest in other topics followed later. The journals took up the challenges of the day. With the renewal of the academic study of law and coinciding with the country's first industrialisation, law journals acted as incubators for other emerging topics in legal studies, such as industrial law, labour law, banking and financial law, rail transport law, and insurance law.

For the first fifteen years of the twentieth century, the *Rivista del diritto commerciale, industriale e marittimo* directed by Saffa and Vivante can be seen as a laboratory of legal thought open to the themes of economy, industry, and labour on an international level. The editorial programme signed by its editors aims to renew and systematise commercial law.³¹ The Italian journal positioned itself next to the older and well-established German *Zeitschrift für Handelsrecht* and the French *Annales de droit commercial*.³²

²⁸ The circulation of ideas can be measured in part by the number of reviews of foreign works that appear in national law journals: N. Hakim, A. Monti, "Circulation des idées juridiques et analyse bibliométrique: l'exemple franco-italien du droit des assurances," *Clio@Thémis* 2018, no. 14.

²⁹ E. Fugazza, *Tra liberismo e solidarismo. Il lungo percorso scientifico di Ercole Vidari*, Padova 2018.

³⁰ C. Mansuino, *Periodici giuridici italiani (1850–1900). Repertorio*, Milano 1994, *ad vocem*.

³¹ C. Vivante, A. Saffa, "Il nostro programma," *Rivista di diritto commerciale, industriale e marittimo* 1903, vol. 1.

³² F. Garnier, "Œuvre de juristes italiens et juristes français à l'œuvre dans les *Annales de droit commercial* (1886–1939)," *Revue historique de droit français et étranger* 2020, vol. 98, no. 1, pp. 55–76.

4. Between History and Comparison: Epilogue

Between the late nineteenth century and the early twentieth century, doctrinal efforts were directed towards establishing the practical application of legal rules on the basis of a renewed understanding of these laws. Theories were constructed not only through the study of the past, but also through knowledge of and comparison with the works of foreign colleagues.

Italian scholars of commercial law drew upon a wide range of medieval and modern legislative, doctrinal, and jurisprudential texts. For instance, Sraffa effectively employed his expertise in the history of commercial law in his written works.³³ Conversely, the historical sources of commercial law were being discovered and studied by legal historians, who were, in turn, engaged in a renewal of their specific field of enquiry.

In addition to the emphasis on history, a constant feature of commercial law studies is the practice of comparison. In Italy, in particular, it is cultivated with a special dedication: historically, the comparative approach is a typical trait of Italian jurists, in all areas of law.

Comparison was a tool of the trade for Italian jurists. In the drafting of codes, both pre-unification and national ones, comparative legislation was utilised. The experience of commercial codification corroborates this. In the post-unification decades, there was a marked propensity to broaden one's gaze by opening it to foreign experiences, in search of the most effective solutions to national problems, solutions that had been tried abroad.³⁴

In summary, Italian nineteenth- and twentieth-century scholarship in commercial law was firmly anchored in the historical evolution of commercial law. However, to effectively address the rapid and profound changes in economic and social reality, scholars directed their attention towards the practical and transnational dimensions of legal relations, a field that particularly attracted the most perspicacious jurists.

The legal debate is characterised by a constant effort to keep pace with the evolution of legislation, prevalent practices, and the rapid shifts in the economic landscape. The primary objective was to address the prevailing national challenges.

The fundamental issue, particularly in Italy, pertained to the crisis of the liberal state, its legal system, and the liberal economy when confronted with social and economic evolution. However, such a crisis also had a European dimension, and it was to erupt irreversibly in 1914 with the outbreak of the Great War.

³³ A. Sraffa, "Il contratto del commissionario con se medesimo," *Archivio giuridico* 1898, nuova serie, vol. 2, pp. 345–368. See: A. Monti, "Intermédiation financière et tutelle des 'consommateurs'. Perspectives de juristes (Italie, XIX^e–XX^e siècles)" [in:] *Le Droit face à l'économie sans travail*, vol. 1: *Sources intellectuelles, acteurs, résolution des conflits*, eds. L. Brunori, S. Dauchy, O. Descamps, X. Prévost, Paris 2019, pp. 193–209.

³⁴ C. Vano, "Codificare, comparare, costruire la nazione. Una nota introduttiva" [in:] *Giuseppe Pisanelli. Scienza del processo, cultura delle leggi e avvocatura tra periferia e nazione*, ed. C. Vano, Napoli 2005, pp. XIX–XXIX.

Literature

- Aquarone A., *L'unificazione legislativa e i codici del 1865*, Milano 1960.
- Audren F., Chambost A.-S., Halpérin J.-L., *Histoires contemporaines du droit*, Paris 2020.
- Birocchi I. (ed.), *'Non più satellite'. Itinerari giuscommercialistici tra Otto e Novecento*, Pisa 2019.
- Braccia R., *Un avvocato nelle istituzioni. Stefano Castagnola giurista e politico dell'Italia liberale*, Milano 2008.
- Caravale M., "Perché mai il diritto privato è ancora diviso in due campi, il civile e il commerciale? La polemica sul Codice di commercio nell'Italia liberale" [in:] C. Angelici et al., *Negozianti e imprenditori. 200 anni dal Code de commerce*, Milano 2008, pp. 81–116.
- Fugazza E., *Tra liberismo e solidarismo. Il lungo percorso scientifico di Ercole Vidari*, Padova 2018.
- Garnier F., "Œuvre de juristes italiens et juristes français à l'œuvre dans les *Annales de droit commercial* (1886–1939)," *Revue historique de droit français et étranger* 2020, vol. 98, no. 1, pp. 55–76.
- Grossi P., *Scienza giuridica italiana. Un profilo storico*, Milano 2002.
- Hakim N., Monti A., "Circulation des idées juridiques et analyse bibliométrique: l'exemple franco-italien du droit des assurances," *Clio@Thémis* 2018, no. 14, pp. 1–38.
- Libertini M., "Vivante, Cesare" [in:] M. Libertini, *Passato e presente del diritto commerciale*, Torino 2023, pp. 265–271.
- Mansuino C., *Periodici giuridici italiani (1850–1900). Repertorio*, Milano 1994.
- Mazzarella F., "Kingdom of Italy (1861–1946)" [in:] *Das ADHGB von 1861 als gemeinsames Obligationenrecht in Mitteleuropa*, eds. M. Löhnig, S. Wagner, Tübingen 2018, pp. 305–337.
- Mazzarella F., *Un diritto per l'Europa industriale. Cultura giuridica ed economia dalla rivoluzione francese al secondo dopoguerra*, Milano 2016.
- Mazzarella F., "Vivante, Cesare" [in:] *Dizionario Biografico degli Italiani*, vol. C, Roma 2020, pp. 31–35.
- Monti A., *Angelo Sraffa. Un 'antiteorico' del diritto*, Milano 2011.
- Monti A., "La fabrique du droit commercial. Les usages de commerce en Italie à l'aube du XX^e siècle," *Revue historique de droit français et étranger* 2021, vol. 99, issue 2, pp. 181–197.
- Monti A., "Form, Size, 'Governance'. Remarks on Italian Late 19th Century Companies" [in:] *The Company in Law and Practice: Did Size Matter? (Middle Ages-Nineteenth Century)*, eds. D. De Ruyscher, A. Cordes, S. Dauchy, H. Pihlajamäki, History of Private Law Series, Leiden 2017, pp. 203–218.
- Monti A., "Intermediation financière et tutelle des 'consommateurs'. Perspectives de juristes (Italie, XIX^e–XX^e siècles)" [in:] *Le Droit face à l'économie sans travail*, vol. 1: *Sources intellectuelles, acteurs, résolution des conflits*, eds. L. Brunori, S. Dauchy, O. Descamps, X. Prévost, Paris 2019, pp. 193–209.
- Monti A., "The Italian Destiny of the French Code de commerce" [in:] *Modernisation, National Identity and Legal Instrumentalism*, vol. 1: *Private Law*, eds. M. Gałędek, A. Klimaszweska, Leiden 2020, pp. 111–142.
- Padoa-Schioppa A., "Disciplina legislativa e progetti di riforma delle società per azioni in Italia (1862–1942)" [in:] A. Padoa-Schioppa, *Saggi di storia del diritto commerciale*, Milano 1992, pp. 205–259.
- Padoa-Schioppa A., "Il diritto commerciale italiano" [in:] A. Padoa-Schioppa, *Italia ed Europa nella storia del diritto*, Bologna 2003, pp. 533–563.

- Padoa-Schioppa A., "La genesi del codice di commercio del 1882" [in:] A. Padoa-Schioppa, *Saggi di storia del diritto commerciale*, Milano 1992, pp. 157–203.
- Porciani I., Moretti M., "La creazione del sistema universitario nella nuova Italia" [in:] *Storia delle Università in Italia*, vol. 1, eds. G.P. Brizzi, P. Del Negro, A. Romano, Messina 2007, pp. 323–379.
- Sciumè A., "Cesare Vivante" [in:] *Enciclopedia italiana: Il contributo italiano alla storia del pensiero. Diritto*, Roma 2012, pp. 446–450.
- Sraffa A., "Il contratto del commissionario con se medesimo," *Archivio giuridico* 1898, nuova serie, vol. 2, pp. 345–368.
- Stolleis M. (ed.), *Juristische Zeitschriften. Die neue Medien des 18.–20. Jahrhunderts*, Frankfurt am Main 1999.
- Stolleis M., Simon T. (eds.), *Juristische Zeitschriften in Europa*, Frankfurt am Main 2006.
- Teti R., *Codice civile e regime fascista. Sull'unificazione del diritto privato*, Milano 1990.
- Teti R., *Un diritto per gli imprenditori. Il diritto commerciale dalle codificazioni ottocentesche al codice civile del 1942*, Roma 2018.
- Vano C., "Codificare, comparare, costruire la nazione. Una nota introduttiva" [in:] *Giuseppe Pisanelli. Scienza del processo, cultura delle leggi e avvocatura tra periferia e nazione*, ed. C. Vano, Napoli 2005, pp. XIX–XXIX.
- Vivante C., "Per un codice unico delle obbligazioni. (Prolusione al Corso di diritto commerciale letta nell'Università di Bologna)," *Archivio giuridico* 1887, vol. 39, pp. 497–516.
- Vivante C., *Traité de droit commercial*, traduit sur la troisième édition italienne (1907–1909) par J. Escarra, vol. 1–4, Paris 1910–1912.
- Vivante C., "Preface" [in:] C. Vivante, *Trattato di diritto commerciale*, vol. 1, Torino 1893.
- Vivante C., "Un code unique des obligations. Histoire et Polémique," traduit et annoté par V. Yseux, *Annales de droit commercial* 1893, pp. 1–23.
- Vivante C., Sraffa A., "Il nostro programma," *Rivista di diritto commerciale, industriale e marittimo* 1903, vol. 1, pp. I–II.

Summary

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Law in a Changing Economy and Society – Italy, the Late Nineteenth and Early Twentieth Centuries: The Birth of Academic Legal Knowledge

The advent of a novel doctrine of commercial law, firmly grounded in a robust tradition, coincided in Italy with the challenges posed by nascent capitalism. Confronted with the challenges posed by the advent of mass production and industrial society, Italian commercial law professors in the late nineteenth and early twentieth centuries were compelled to develop new methodologies. In order to ensure the continued relevance of the national codification, it was imperative to maintain its alignment with contemporary practices. The focus of their reflection was on history and comparison, which unfolded in harmony with the events occurring in other European countries. Intense and fruitful relationships were cultivated with foreign colleagues, especially French ones, through the flexible medium of legal journals.

Keywords: Italian commercial law (Kingdom of Italy), history of commercial law, history of legal thought, circulation of knowledge, law journals.

Streszczenie

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Prawo w zmieniającej się gospodarce i społeczeństwie – Włochy końca XIX i początku XX wieku: narodziny akademickiej wiedzy prawniczej

Pojawienie się nowej doktryny prawa handlowego, mocno zakorzenionej w bogatej tradycji, zbiegło się we Włoszech z wyzwaniem stawianym przez rodzący się kapitalizm. W obliczu przemian związanych z pojawieniem się produkcji masowej i społeczeństwa przemysłowego włoscy profesorowie prawa handlowego pod koniec XIX i na początku XX w. zostali zmuszeni do opracowania nowych metod badawczych. Aby zapewnić dalszą aktualność krajowej kodyfikacji, konieczne było utrzymanie jej zgodności z ówczesną praktyką. W centrum ich refleksji znalazła się historia i komparatystyka, rozwijane w harmonii z wydarzeniami mającymi miejsce w innych krajach europejskich. Dzięki elastycznemu medium, jakim były czasopisma prawnicze, nawiązywano intensywne i owocne kontakty z zagranicznymi uczonymi, zwłaszcza francuskimi.

Słowa kluczowe: włoskie prawo handlowe (Królestwo Włoch), historia prawa handlowego, historia myśli prawniczej, przepływ wiedzy, czasopisma prawnicze.