

EDITORIAL

Dear Readers,

The launch of a new volume of the Polish Yearbook of International Law (PYIL) occurs at time in a history characterized by dramatic volatility and profound uncertainty of the future of the international legal order. The world is witnessing a rapid succession of crises (called by some “polycrisis”) that not only test the resilience of global institutions but threaten to destroy the fundamental principles established by states over the past eighty years.

The most serious and undeniable challenge remains the full-scale, unprovoked Russian aggression against Ukraine. This conflict is not merely a regional dispute; it is a clear-cut, massive violation of the bedrock prohibition on the use of force, serving as a reminder of the catastrophic consequences when a permanent member of the Security Council disregards the United Nations Charter and international law. The enduring aggression, which has been ongoing since 2014, highlights the limitations of the existing collective security framework and calls for a deep, critical re-evaluation of enforcement mechanisms. While the tragedy in Ukraine demands international attention, similar humanitarian and legal challenges are unfolding elsewhere, further straining the capacity of international law to maintain order and protect human rights. The International Court of Justice (ICJ) has recently weighed in on the legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, prompting a re-examination of core concepts like *jus cogens*.

In parallel with these devastating conflicts, the architecture of global governance is facing systemic strains from a shifting geopolitical landscape. We observe a dramatic reassessment by major powers, notably the United States, regarding its engagement with the multilateral legal order. The pendulum of policy appears to swing from robust institutional participation to a more transactional, skeptical approach that prioritizes national sovereignty and (short-term) domestic interests over collective action and international institutional commitment. This shift has created an environment of increased legal ambiguity, where the very expectation of adherence to established norms is diminished, leading to what some term a “geoeconomic

competition between states.” The perception that international law is optional for the powerful, rather than binding for all, erodes its authority and practical efficacy.

This constellation of crises – the overt disregard for the prohibition on force, the humanitarian catastrophes that follow, and the fracturing of multilateral consensus – might suggest a fatal decline of international law. However, the opposite is true: it is precisely in these moments of maximum peril that the need for international law is greater than ever before. International law is the indispensable framework for accountability, articulating norms of conduct, and offering pathways out of perpetual conflict and disorder. Without it, the world risks collapsing into a Hobbesian state governed solely by power and national interest. The scholarly work contained in this volume is a necessary and timely contribution to this essential project: to analyze, critique, and ultimately reinforce the rules-based international order.

The first section of this volume (“General Articles”) is structured to lead the reader from fundamental theoretical inquiries to specific, pressing contemporary challenges. This is followed by the part dedicated to EU law. This sequence reflects the interconnectedness of general principles, specialized fields, and regional integration projects.

The volume therefore begins with the text by Lucas Lixinski (“Resisting Chrononormative International Law”), which argues that engagement with time in international law requires unpacking the contingent memories and imaginaries that underpin legal regimes, using International Cultural Heritage Law as a case study. Maurizio Arcari, in his “Divisive *jus cogens* reloaded...”, submits that limiting the peremptory effect of the right to self-determination (as discussed in the ICJ’s 2024 Advisory Opinion) risks undermining the unitary, universal character of *jus cogens*. Moving to conflict issues, Kristýna Urbanová (“Validity of a potential Peace Treaty between Ukraine and Russian Federation...”) examines the legal validity of a potential peace treaty between Ukraine and Russia under Art. 52 of the Vienna Convention on the Law of Treaties, which voids treaties procured by the threat or use of force.

Milan Lipovský, in his “Suitability of the principle of non-intervention...”, analyzes whether the principle of non-intervention is suitable for governing cyber information operations aimed at influencing another state’s elections. Hanna Kuczyńska and Andriy Kosylo, in “The Long-awaited Breakthrough Legislation...”, ask whether the new Ukrainian criminal law, introduced due to the ratification of the Rome Statute, fully implements international standards regarding the elements and definitions of international crimes. Jan Denka, in “The Enforcement of the International Covenant on Economic, Social and Cultural Rights by the Administrative Courts...”, reveals that Polish and Czech administrative courts share significant similarities in enforcing ESC rights under the ICESCR, with compa-

nable shortcomings in both jurisdictions. Markiyan Malskyy (“Current State and Future of Investor-State Mediation”) discusses the criticism of ISDS arbitration and highlights developments, such as the Singapore Convention, aimed at increasing the use of investor-state mediation as an alternative dispute resolution mechanism. Julia Sochacka, in her “Recognition and enforcement of arbitral awards in Egypt, Saudi Arabia and Iraq...” provides a comparative outlook on the recognition and enforcement of arbitral awards in these three states to determine if there is a region-specific approach to international arbitration in West Asia and North Africa.

The final part of this section focuses on European law. It starts with Andrzej Wróbel’s thought-provoking article (“An Axiological Turn in European Constitutionalism?”) in which he argues that we witness the paradigm shift in EU law towards a “Union of values”. Agnieszka Sołtys, in her “Equality of Member States as a new rationale for the principle of primacy”, assesses the CJEU’s new justification for the principle of primacy based on the equality of Member States before the Treaties, viewing this axiological argument as crucial for strengthening the constitutionalisation of EU law. Patrycja Dąbrowska-Kłosińska (“Free movement of people”) argues that increased re-regulation at the EU level does not necessarily lead to better protection and enforcement of fundamental rights for individuals at the intersection of health protection and freedom of movement during the pandemic. Raquel Cardoso and Vasil Pavlov (“The effectiveness of the European approach to irregular migration”) evaluate the effectiveness of the EU’s twofold approach to irregular migration: the criminalisation of migrant smuggling and the externalisation of migration policy. Ewa Bujak (“Escaping into economic security...”) looks at the EU’s use of foreign direct investment screening as an instrument to protect its strategic autonomy in times of crises. Finally, Edgar Drozdowski (“Effectiveness and constitutional standards...”) argues that Polish constitutional standards for the protection of taxpayers’ rights conflict with and hinder the proper implementation of the European General Anti-Abuse Rule derived from the ATA Directive.

The volume concludes with our two traditional sections. The first one (“Polish Practice”) features a selection of judgments of the Polish Supreme Administrative Court relating to public international law. This selection offers invaluable primary material for scholars and practitioners seeking to understand how Poland’s highest administrative judiciary applies and interprets international law and the provisions of EU law within the domestic legal order. We hope that the cooperation with Supreme Administrative Court in the selection of judgements for dissemination will be permanent, and that over time, we will be able to expand this section to include rulings from other Polish highest courts. The second section (“Book Reviews”) provides a critical overview of selected current scholarship in the field. We review *Euphony, Harmony and Dissonance in the International Legal Order* (by

Maciej Taborowski); *WTO. System und Funktionsweise der Welthandelsordnung* (by Anna Czaplińska); *Teaching International Law* (by Łukasz Gruszczyński); and *Intentional Destruction of Cultural Heritage and the Law: A Research Companion* (by Marcin Marcinko).

Last but not least, in terms of our organizational developments, we are pleased to announce that the Polish Yearbook of International Law has been added to the Italian list of Class A-journals, which confirms its high academic standards and international recognition.

We believe that the latest volume presents a powerful body of evidence demonstrating the continued, indeed crucial, necessity of rigorous legal scholarship in these turbulent times. The articles collectively affirm that international law is not a passive casualty of geopolitical shifts but an active and vital terrain upon which the conflicts of values, power, and security are fought. From the conceptual battles over chrononormativity and the preemptory force of *jus cogens*, to the practical challenges of regulating cyber conflict and enforcing economic rights, the contributors offer both critical perspectives and concrete solutions. They remind us that the work of strengthening the international legal order is an ongoing, difficult, and non-negotiable task. We trust that this volume will provide both illumination and impetus for those dedicated to ensuring that the rule of law, rather than the rule of force, guides the destiny of the international community.

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