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Title: The United Nations system from the Polish perspective. Conference report Warsaw, 13–14.10. 2016

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Citation style: Majos-Kwiatkowska Magdalena. (2017). The United Nations system from the Polish perspective. Conference report Warsaw, 13–14.10. 2016. "Silesian Journal of Legal Studies" (Vol. 9 (2017), s. 109-113



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THE UNITED NATIONS SYSTEM FROM THE POLISH PERSPECTIVE

Conference report Warsaw, 13–14.10.2016

The conference “The United Nations system from the Polish perspective” took place in Warsaw on 13 and 14 October 2016. It was organised by the International Law Association – Polish Group.

The aim of the conference was to analyse the universal international order, its central role in the United Nations, and the institutions of the UN system from the Polish perspective (this perspective means both the place of Poland in the institutionalised order, and the perception of the phenomenon by Polish lawyers).

The inspiration for organising the conference was the 70th anniversary of the United Nations, which was celebrated in 2015. The participants of the conference were welcomed by Professor Jerzy Menkes. The moderator of the first panel was Professor Anna Przyborowska-Klimczak, dean of the Faculty of Law and Administration at Maria Curie-Skłodowska University in Lublin. The first speech was given by Professor Jan Woroniecki, on “UN – Advocate global governance in a troubled world”. He pointed out that global problems determine the tasks the organisation is facing. He also asked questions about the transnationality of the United Nations. Another speaker, Professor Jerzy Menkes, focused on the situation of Poland: between universalism, regionalism and narcissism. The professor emphasised the role and importance of universal values accepted throughout the world. In his speech, he quoted Kofi Annan’s universal values. Professor Menkes discussed values such as peace, freedom, social progress, equality, and dignity.

Answers to the question “UN axiology and the challenges of the present – a strong point of reference or the need to revalue? The Polish perspective” were sought by Prof. Brygida Kuźniak and Dr Milena Ignalević-Citak from the Jagiellonian University in Cracow. The speakers emphasised the existence of the UN order and the parallel international order. They identified a triad consisting of the order of the They presented few views on the matter the order of the United Nations Charter, the dynamic interpretation of the Charter, the practice of the United Nations, and the actual international order. Dr Ewelina Cała-Wacinkiewicz drew attention to the constitutional character of the Charter of the United Nations. According to her, in a narrow sense, it is the constitutional of the UN (internal acts of the organisation, statutes). She also took a broad look at the constitutional character of the UN, as seen through the fragmentation of international law. Next was Dr Wojciech Kilarski, who spoke about “The United Nations’ common system” in which he focused mainly on the 1950s and 60s. He also discussed Theodore Meron’s work on this topic. This was followed by a historic presentation by Dr Władysław Pęksa, “The consequences of ‘bad history’ – the world between E. Hobsbawm and B. Anderson”. Dr Marcin Menkes was the last speaker on this panel, with his topic of “The UN Initiative for the rule of law and Poland”.

The moderator of the second panel was Professor Artur Kozłowski. First to speak was Dr Michał Stępień with “Tied transaction – UN membership and MTS jurisdiction”. He was followed by Professor Bartłomiej Krzan speaking about “Responsibility/Accountability of the United Nations”. After that, Dr Anna Czaplińska presented her “International law in the work of UN bodies”. Professor Marek Zieliński then drew the audience’s attention to “The principle of *nemo plus iuris* and the powers of the UN Security Council”. Dr Łukasz Kułaga followed this with his look at the problems of the role of the Security Council as a global legislator and the prospect of Poland’s membership on this body. Next was Professor Anna Przyborowska-Klimczak. She discussed the UN Secretary-General’s mission in the contemporary international community in terms of its actual activities and the expectations for this office. Later Dr Edyta Lis presented the advisory competences of the International Court of Justice. The final presentation of this panel, titled “Due process in proceedings within the internal justice system of the United Nations”, was given by Dr Kinga Stasiak. She referred to the professional ethics of UN officials.

The third panel was led by Professor Jerzy Menkes. It began with a speech from Professor Tadeusz Gadkowski “New institutions of cooperation within the UN, using the example of international environmental law”. He was followed by Professor Kazimierz Równy and his look at “A new UN body implementing sustainable development goals and progress in Poland”. The professor emphasised the role of states in achieving the UN’s goals. The new organ he dedicated his presentation to is the Political High-Level Forum for Sustainable Development. According to this body’s strategy, it aims to achieve: the elimination of hunger (for this purpose the body established a 15-year programme), the provision of healthy living conditions, education and the maintenance of peace and security. Dr Konrad Jan Marciniak from the Ministry of Foreign Affairs drew the attention of the listeners to the UN’s activities in the context of the international regulation of the seas. He particularly highlighted the UN Oceans, which is an inter-agency mechanism that seeks to enhance the coordination, coherence and effectiveness of the competent organisations of the United Nations system and the International Seabed Authority, in conformity with the United Nations Convention on the Law of the Sea, the respective competences of each of its participating organisations and the mandates and priorities approved by their respective governing bodies¹. Dr Adriana Kalicka-Mikołajczyk tried to find an answer to the question: How to take care of the climate and the environment? In this context, she discussed the UN’s climate actions and their impact on the EU’s climate policy. In the opinion of the speaker, the EU should act in two ways: firstly by carrying out the UN’s obligations, and secondly by acting autonomously through its institutions (for example: a second energy package). Next up was Dr Wojciech Konaszczyk who gave a presentation on “Operations of the (Not) United Nations in the XXI century, using the example of the reversible conversion of selected conventional instruments to the global oil market”. He was followed by Dr Izabela Kraśnicka who was speaking about the activities of the International Civil Aviation Organization and its contribution to the development of international aviation law. Last in the third panel was Dr Ilona Topa on the subject of “Protection of the cultural heritage of mankind. The international community for deliberate destruction of cultural goods”. She pointed to the fact that increasing numbers of armed conflicts are including attacks on cultural

¹ UN-OCEANS. *An interagency collaboration mechanism on ocean and coastal issues within the UN system*, <http://www.unoceans.org/> [10.07.2017].

heritage sites. She discussed the case before the International Criminal Court on Ahmad Al Faqi Al Mahdi, who committed a war crime involving the deliberate destruction of objects belonging to the world heritage listed on the UNESCO list. The crime consisted in the deliberate targeting of attacks on religious buildings and historical buildings in Timbuktu. Al-Mahdi was personally involved at all stages of the destruction, from the planning phase, in which he acted as a scientific and religious expert, through the preparation and execution of the planned destruction. He was leading the group that performed the destruction of the monuments of Timbuktu.

The first day ended with a heated discussion. The participants were given the opportunity to ask questions to the speakers, who specifically addressed the issues presented in their individual lectures. In the evening there was a gala dinner.

The second day of the conference started with “The United Nations collective security system against new threats to peace and international security”, presented by Professor Irena Popiuk-Rysinska. Next was Professor Jacek Barcik with “The UN Security Council sanctions in a court’s practice”. After that, Dr Piotr Uhma presented his short response to the question of whether, in the process of restoring peace in the former Yugoslavia, the complementarity or competitiveness of international institutions was involved. Next up was Dr Magdalena Matusiak-Frącczak presenting her topic of “The UN Security Council and terrorism”. She was followed by Dr Tomas Mach of the University of West Bohemia asking: “The Security Council and its Resolutions in the Theory and Practice of the Arab Spring: Quo Vadis State Sovereignty?” Dr Tomasz Srogosz presented “The United Nations System Against Organised Crime – Balance and Perspectives”. He raised the issue of the Islamic State (ISIS, DAESH). Przemyslaw Rogulski was the last speaker in this part with his topic of “Cyber war and the ban on the use of force – cyberspace as a challenge for the UN system in the 21st century.”

The panel ended with a lively discussion of the presented topics. A particularly interesting discussion concerned cybercrime. The speaker, Dr Marcin Marcinko took part in the discussion. Dr Elżbieta Mikos-Skuza pointed out that states might take actions in such a case.

The fifth panel started with the question raised by Professor Roman Wieruszewski, “Reform of UN treaty bodies – is it still valid?” The professor paid special attention to the problems that the treaty bodies face. He proposed that their solution was possible through the unification of activities, the shortening of procedures and the issuance of clear recommendations. In addition, he emphasised the role of time in complaint processing. Nowadays, complaint processing takes about four years, and this period should be significantly shortened. He was followed by Dr Grażyna Baranowska who presented “The practice of treaty bodies and special procedures – complement or competition?” Special attention was given to the work of the forced disappearance working group and the work of the Committee on forced disappearances. The current achievements and challenges of the Special Procedures of the Human Rights Council were addressed by Anna Połczynska, M.A. Then Dr Aleksandra Gliszczyńska-Grabias gave an evaluation of the effectiveness of the “indication and embarrassment” method as a mechanism for the protection of human rights within the framework of the Universal Periodic Review (UPR). After that, Dr Lukasz Dąbrowski assessed the functionality of the treaty system of human rights protection of the United Nations from a Polish perspective. Dr Katarzyna Sękowska-Kozłowska presented “Challenges facing the UN in the fight against violence against women: time for a treaty?” The final presentation

was given by Professor Joanna Nowakowska-Małusecka on “The UN against sexual violence in armed conflicts”. She noted that the victims of such violence are not only women, but also boys and men. The use of sexual violence is currently used as a tactic of warfare, primarily aimed at humiliating the whole community. The professor pointed out that victims should be given special care and assistance. She also noted the need to involve women (including child soldiers) in peace negotiations and demobilisation.

The panel ended with a wide discussion during which Prof. Elżbieta Dynia, Dr Marcin Marcinko and ambassador Remigiusz Henczel took an active part. They discussed the current issue concerning human rights. The ambassador pointed out that the biggest achievement of UPR is its “universality”. They also discussed values that are important in human rights courts and tribunals.

The sixth panel began with a speech made by Dr Magdalena Butrymowicz. She presented “Poland’s contribution to the protection of children rights in the case of the Convention on the Rights of the Child – assumptions, aims and results”. After this, Dr Jakub Czepek presented “Procedural obligations arising from Article 2 of the International Covenant on Civil and Political Rights against the Challenges of Contemporary International Protection of Human Rights”. This was followed by a look at “The United Nations Children Fund – Experiences and Challenges” by Dr Agnieszka Wedeł-Domaradzka. Then Dr Vita Zagórowska was presenting “The scope of competence of the UN Special Rapporteur on Minorities, using the example of selected countries”. Dr Magdalena Pótorak followed with a talk on “Together for the protection of the rights and well-being of people forced to flee – from the UNHCR experience in Poland”. The purpose of the presentation was to outline how the asylum system was shaping up in Poland based on the UN standards. It outlined what challenges the UNHCR faced in a country that was simultaneously experiencing the process of systemic transformation and consequently joining the EU. After this, Dr Elżbieta Mikos-Skuza presented the conclusions of the first World Humanitarian Summit in 2016. The speaker focused mainly on the problem of international humanitarian coordination by the United Nations. The final speech was made by Dr Katarzyna Miksa from the University of Michal Romer in Vilnius, it was titled “Human rights in the UN system in the face of contemporary challenges”.

The meeting ended with a lively discussion on the presentations. The conference was summarised by Professor Jerzy Menkes, who merged all the issues debated. The professor expressed his warm thanks for a wonderful atmosphere, and a large attendance at the conference.

The conference “United Nations system from the Polish perspective” was an excellent opportunity to gather together, interact and exchange views during conference sessions, coffee breaks and the conference dinner. All the panels on the conference presented independent parts of a larger topic. Their task was to present the selected issues of seventy years of the United Nations’ activities.

It should be stated that the UN is a place to discuss contemporary threats and is an excellent forum for resolving international crises. Before openly criticising the UN, it is important to be familiar with its specific position and to realise that many of the restrictions it faces are not a direct result of its mistakes and shortcomings. It is an organisation that is fully dependent on the Member States. They vote on decisions on behalf of the organisation, the shape, the size and the purpose of its budget, and to block individual actions.

In addition, the key to trying to assess the UN's activities is to realise what its tasks are. The UN is primarily focused on conflict prevention and international law norms. Therefore, an objective evaluation of the effectiveness of the organisation is extremely difficult, sometimes even impossible. Undoubtedly, an analysis of the UN's activities is necessary, because it largely determines the universal international order.

It should be expressed that the topics presented at the conference will serve as inspiration for further in-depth research.