



6-2022

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GLOBAL LAW IN FOCUS

AALS Section on International Law

Co-Editors: Cindy G. Buys and Ronnie R. Gipson Jr.



Message from the Chair

Dear Colleagues,

Greetings! Our Section has nearly 1000 members, all working on various aspects of international law. It is an honor to serve as Chair for this year. Thanks so much to Cindy Buys and Ronnie Gipson for launching our first Section Newsletter. Please feel free to send them your updates and information for inclusion in the next issues.

The Executive Committee is in the process of planning a terrific set of programs for the AALS Annual Meeting in San Diego. I hope you will be able to attend.

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Lessons of the Past and the Humanitarian Outreach of Poland to Ukrainian Refugees

By Karin Mika, Cleveland Marshall College of Law

In some respects, both Poland and Ukraine have shared a lamentable history on the world stage. Because of their location within a buffer zone between European empires and Russian empires, both Poland and Ukraine and have alternately endured annihilation, annexation, invasion, and border shifts. Both countries have spent centuries fighting for their existence as well as for governmental autonomy.¹

Poland and Ukraine have similar histories on numerous levels. Both countries have a high concentration of Catholics, and both consider themselves of a Slavic bloodline. Both have overlapping territories that were part of Galicia in the Austro-Hungarian Empire, and both consider Russia (and later the Soviet Union) the entity to be most feared. Yet, despite their similar histories and a geographic proximity, the relationship between Poland and Ukraine has historically been turbulent.²

With the deterioration of the Austro-Hungarian Empire in the late 1800s, the two countries (then territories) engaged in bloody conflicts to re-claim what were considered to

be ancestral homelands. These conflicts reached their peak subsequent to the Bolshevik Revolution of 1917 during the Polish-Ukrainian War of 1918-1919, in which the two territories battled primarily over control of Galicia. The Treaty of Versailles in 1919 (ending World War I) complicated the relationship between Ukraine and Poland when it allowed for the creation of an independent Poland (but not Ukraine), and incorporated Galicia into the reconstituted country of Poland.³

The relationship between Poland and Ukraine became more turbulent between World War I and World War II. It is fair to say that Ukraine was neither an ally of Poland, nor particularly happy being a part of the Soviet Empire. When World War II began, Ukrainians were in the middle of the conflict. Because Ukraine was part of the Soviet Union, many had no choice and were conscripted into the Soviet Army that invaded Poland.⁴ Thereafter, when Hitler decided that he would invade Russia, many Ukrainians chose to be on the side of the Nazis because they hoped to achieve an independent Ukraine once the Soviets were

¹ See generally EDWARD CRANKSHAW, *THE FALL OF THE HOUSE OF HABSBURG* (1968).

² Piotr Kościński, *Poland and Ukraine: History Divides*, THE WARSAW INSTITUTE, March 1, 2018, <https://warsawinstitute.org/poland-ukraine-history-divides/>.

³ M.B. Biskupski, *War and the Diplomacy of Polish Independence, 1914-18*, 35 *THE POLISH REV.* 5, 5-17 (1990).

⁴ John A. Armstrong, *Collaborationism in World War II: The Integral Nationalist Variant in Eastern Europe*, 40 *THE JOURNAL OF MODERN HISTORY* 396 (1968).

defeated.⁵ Neither scenario was beneficial for Poland.

There is no doubt that Ukraine is associated, if not blamed, for many of the atrocities committed in Poland and as part of the Nazi regime. In fact, Vladimir Putin has invoked Ukraine's alleged Nazi alliance as a basis for invasion.⁶ The Katyn Massacre occurred in Ukraine, and, from 1943-45 the Ukrainian Insurgent Army engaged in genocidal ethnic cleansing, especially in Eastern Galicia and Volhynia.⁷ According to German records, approximately 100,000 Ukrainians joined units that assisted in Nazi persecution, while others were "conscripted" into participation in Nazi genocidal activities after being captured in battles with the Soviets.⁸

This is not to say that Poland is blameless or did not retaliate in kind when able. There were also Ukrainians who fought against the Nazis, and others who were forced into collaboration by circumstance. As is usually the case, there is a dispute as to who is more blameworthy for atrocities committed.⁹

However, because of what occurred in World War II and prior, Poland and Ukraine have a

complicated and turbulent relationship that exists to this day. This is true despite Poland's public stance toward supporting the autonomy of Ukraine since Poland itself became autonomous after the dissolution of the Soviet Union. This is also true despite the fact that Poland, prior to Ukraine's War with Russia, allowed approximately one million Ukrainian migrant workers into Poland to fill temporary labor roles. The labor restrictions for Ukrainians entering Poland have mirrored ethnic prejudices between the two countries. Only a select few Ukrainians have been able to enter Poland, their ability to stay in Poland has been limited, and the pay and benefits have been minimal.¹⁰

Thus, when Vladimir Putin invaded Ukraine in 2022, it may have been surprising to some familiar with history see Poland immediately reach out to its Ukrainian neighbors with open arms. The more cynical might conclude that Poland has an ulterior motive – should Ukraine fall, Poland, which has endured centuries of annexation, might be next on the list of the countries to be annexed back into the Soviet Empire.¹¹ Moreover, Poland, has a lingering bitterness aimed at Russia, not only for its invasion in 1939, but for being placed

⁵ Katya Cengal, *The 20th Century History Behind Russia's Invasion of Ukraine*, THE SMITHSONIAN, March 4, 2022, <https://www.smithsonianmag.com/history/the-20th-century-history-behind-russias-invasion-of-ukraine-180979672/>.

⁶ Anton Troianovski, *Why Vladimir Putin Invokes Nazis to Justify His Invasion of Ukraine*, THE NEW YORK TIMES, March 17, 2022.

⁷ Andrii Portnov, *Clash of Victimhoods: the Volhynia Massacre in Polish and Ukrainian memory*, ODR, Nov. 16, 2016, <https://www.opendemocracy.net/en/odr/clash-of-victimhood-1943-volhynian-massacre-in-polish-and-ukrainian-culture/>.

⁸ See, e.g., *United States v. Demjanjuk*, 518 F. Supp. 1362, 1365-74 (N.D. Ohio 1981), *affd*, 680 F.2d 32 (6th Cir. 1982).

⁹ Timothy Snyder, *"To Resolve the Ukrainian Problem Once and For All": The Ethnic Cleansing of Ukrainians in Poland 1943-47*, 2 J. OF COLD WAR STUDIES 86-120 (Spring 1999).

¹⁰ Claudia Ciobanu, *Poland's Tepid Welcome to Ukrainians Leaves the Economy Vulnerable*, BALKAN INSIGHT, <https://balkaninsight.com/2020/03/03/polands-tepid-welcome-to-ukrainians-leaves-economy-vulnerable/>.

¹¹ Katya Adler, *Ukraine war: Fears Russian aggression could spill into Poland*, BBC.COM, March 15, 2022, <https://www.bbc.com/news/world-europe-60746437>.

behind the Communist iron curtain after the end of the war.

What might be surprising to many who recall the bitter history between the two countries is the degree of compassion with which Poland has reached out to its neighbors. Instead of witnessing a calculated strategic alliance, Poland and the Polish people have demonstrated humane kinship, and have done so seemingly universally throughout the country.

Almost immediately after Putin's invasion, the Polish Parliament adopted "the Special Act". The purpose of the Special Act was to provide assistance to Ukraine and its refugees by providing Ukrainian refugees with the following: ¹²

- The ability to stay in Poland for 18 months with an option to extend the stay to three years.
- The ability to legally work in Poland and eligibility for unemployment.
- Access to healthcare and other governmental assistance
- Access to education, including nurseries and colleges
- Tax incentives to Poles who provide help for refugees.

Moreover, Poland (as well as Hungary and Romania), has streamlined the process for

refugees to bring their family pets into the country. Instead of requiring multiple levels of paperwork indicating proof of vaccine and microchipping, those fleeing Ukraine need only fill out a single form. ¹³

The compassion is evident especially at the border cities. In Przemysl, assisted 50,000 refugees a day into mid-March, those fleeing Ukraine were greeted with signs with the message, "You are safe here." The town has committed itself to an organized processing of refugees so that those crossing the border can have almost immediate access to food and shelter. ¹⁴ Various other organizations throughout Poland are coordinating to bring aid to those still in Ukraine as well as sustain both zoos and animal shelters.

The reaction of Poland and its people is a refreshing departure from the historic blood rivalries of the past. This is similarly true of both Romania and Hungary; however, it is Poland that has absorbed the majority of Ukrainian refugees and Poland that has the most historically contentious relationship with Ukraine. Poland's current humanitarian efforts with respect to its Ukrainian neighbors is evidence that some lessons have been learned from the past. Perhaps there is hope that some of the centuries old blood feuding can come to an end and countries can better work toward cooperative relationships in the future.

¹² *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa*, Dz. U. 2022 poz. 583 ("The law on assisting Ukrainian citizens in connection with the armed conflict in that country"),

¹³ Joshua Silverwood, *Ukraine's EU neighbors waive pet restrictions amid war exodus*, VETTICES, Feb. 28,

2022, <https://www.vettimes.co.uk/news/ukraines-eu-neighbours-waive-pet-restrictions-amid-war-exodus/>.

¹⁴ [Monika Pronczuk and Jeffrey Gettleman, A Town on Ukraine's Edge Determined to Escape its Past](https://www.nytimes.com/2022/03/23/world/asia/ukraine-poland-border-przemysl.html), THE NEW YORK TIMES, March 23, 2022, <https://www.nytimes.com/2022/03/23/world/asia/ukraine-poland-border-przemysl.html>.