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Krystyna Kowalik, Andrzej Jakubowski, Karolina Wierczyńska (eds.), *Harmony and Dissonance in the International Legal Order / Eufonia, harmonia i dysonans w międzynarodowym porządku prawnym / Euphonie, harmonie et dissonance dans l'ordre juridique international. Liber Amicorum Władysław Czapliński,* Wydawnictwo INP PAN, Warszawa: 2024

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INTRODUCTORY REMARKS

The book under review is a commemorative edited volume dedicated to Professor Władysław Czapliński. It has three interesting features. Firstly, it presents specialists in classical international law and European Union law. Secondly, the editors identified the best experts in a given area. Thirdly, the ambition of the authors of individual texts is to showcase topics that are particularly close to them. The texts that make up this publication are of very high quality. The positive assessment of the individual texts, therefore, translates into a high assessment of the book as a whole.

1. EVALUATION OF THE TEXTS IN THE BOOK

The usual convention for such a publication is to arrange the texts in alphabetical order by the authors' surnames. This does not change the fact that four main themes can be distinguished in the publication.

The first group consists of texts on the very foundations of international law. This is the area in which reflection on the nature of international law, its sources, and international responsibility should be situated. Hobe's study on

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the international legal order itself deserves special emphasis ("The International Legal Order: Too Fragile to Be an Attractive Safety Net"). The author shows a number of threats to such an order and considers how they affect the very essence of international law. These threats include blocking the dispute settlement system in the WTO and the wars in the Gaza Strip and Ukraine. Reflections on the essence of international law are also presented by Cała-Wacinkiewicz ("Between Dissonance and Euphony – On the Power of the Unity of the System of International Law in the Context of Its Fragmentation"). An analysis of the latter concept leads her to the conclusion that "the unity of the system of international law is a common ground for the constitutive features conditioning the existence of this system," but "the fragmentation of international law, being an intrasystemic phenomenon, occurs in its detailed part." This aspect is also discussed by Arcari and Bonafe on *jus cogens* ("Divisive Jus Cogens"). The authors pose a number of fundamental questions about the character of *jus cogens*, for example, whether such norms can be created by means of international agreements or whether *jus cogens* can be sought among those regulating the foundations of international relations. The text also refers to methods of ensuring enforcement of respect for *jus cogens* norms. This issue (or rather its broader dimension concerning *erga omnes* norms) appears many times in this work.

Several studies concern the sources of international law. For example, Saganek points out the challenges that unilateral acts of states pose to sources of international law ("Unilateral Acts of States in International Law and the Problem of Sources of International Law"). The book also includes two very valuable texts on the general principles of law (A. Kozłowski, "Identification of the General Principle of International Law" and M. Lugato, "General Principles of Law Recognised by Civilised Nations: The Authority of Pastness in International Law"). Lugato tries to analyze the very essence of general principles, while Kozłowski focuses on the reconstruction of the general principles of international law. He assigns a decisive role in this regard to judges and international courts. He notes that "the suggested model for the reconstruction of a general principle of international law is static in the sense that it refers to a specific constant, i.e., general principles, which are found in every legal order, including international law. It is also a dynamic model, as it takes into account the need to follow the elements of the international legal order that are changing as a result of consensual agreements." This is in line with Kwiecień's considerations on where to look for sources of human rights ("Formal Sources of International Human Rights Law: Treaties, Custom or General Principles of Law?"). The author concludes that "these are the general principles of law and, to some extent, customs are the formal sources of the principles prohibiting

states from violating the fundamental rights of people, including the prohibition of slavery or genocide."

This trend is reflected in the study by Wyrozumska ("The Art of Treaty Interpretation – Green Power v. Spain"). Although it mainly concerns a specific arbitration award, the author formulates several important and noteworthy observations on the interpretation of international agreements. The excellent study by Roth on the importance of the institution of international recognition for international law is also situated in this specific scientific area ("Recognition Doctrine's Unacknowledged Centrality to the International Legal Order").

Three studies deal with the problem of responsibility in a broader sense. Two of them analyze responsibility sensu stricto, i.e., responsibility for violating international law (M. Balcerzak, "International Responsibility of the State and the European Convention on Human Rights: A Few Reflections" and P. Sturma, "Possible Ways to an International Compensation Mechanism"), while the third one addresses liability, i.e., liability for actions not prohibited by international law (M. Seršić, "Liability of States Sine Delicto"). Balcerzak's text as such is a very successful attempt to capture the attitude of the European Convention on Human Rights (ECHR) towards the rules of international responsibility. The author believes that the ECHR "is an international treaty that does not create a closed regime, but belongs to the international legal order." Therefore, he advocates for more frequent inclusion of the articles of the Code of Criminal Procedure in the jurisprudence of the European Court of Human Rights (ECtHR). Sturma examines the issue of responsibility for aggression in an extremely competent way, taking as an example the instrument for estimating the damage caused to Ukraine by Russia, while Seršić, concentrating on the achievements of the International Law Commission, refers to one of the most mysterious institutions of international law, i.e., the need to pay compensation for actions not prohibited by international law.

The second group of contributions consists of studies referring to more specific norms or institutions of international law. Particularly noteworthy are those that deal with the European Union and its law (D. Kornobis-Romanowska, "Euphony in International Law in the Face of the Tumult of Time – The Role of the European Union in the Creation of International Humanitarian Law"; J. Kranz, "Between Superiority, Precedence and the Rule of Law"; and M. Szwarc, "Criminal Law of the European Union – In Search of Harmony"). Another group engages with international criminal law (P. Kovács, "In the Second Place, Where Appropriate... Considerations on the Position of General International Law in the Jurisprudence of the International Criminal Court"). The author very competently presents the impact of general (i.e., other than the

Statute of the ICC) international law on the achievements of the International Criminal Court. A similar subject, although from the perspective of a different court, the International Court of Justice (ICJ), is discussed by Wierczyńska and Zaręba ("Obligations of States in the Context of the Crime of Genocide in the Light of the Jurisprudence of the International Court of Justice"), in which the authors analyze the evolution of the Court's practice in interpreting the Genocide Convention. Other studies relating to the ICJ also deserve attention (P. Grzebyk, "Locus Standi of Third States in the World Court Proceedings Concerning *Erga Omnes* Violations"; P. Hilpold, "The ICJ's Power to Issue Interim Measures According to Article 41 of the ICJ Statute at the Test: South Africa v. Israel before the ICJ" and W. Sadowski, "Against the Tide – A Dissenting Opinion in International Judiciary"). It is worth noting that they refer to the latest trends in the ICJ's jurisprudence on the filing of complaints by states other than those directly aggrieved.

Two chapters are dedicated to the ECtHR (A. Jakubowski, "The Right to Cultural Heritage in the Jurisprudence of the European Court of Human Rights" and B. Łukańko, "The Effectiveness of Interim Measures of the ECtHR in National Law"). They both highlight the impact of the Court on the domestic judicial practice of the States Parties and its role in the implementation of other treaties adopted within the framework of the Council of Europe. Other chapters that fall to this group deal with international economic law (J. Menkes, M. Menkes, "Ban on Trade: From Roman Law to International Law" and C. Mik, "Unilateral Measures of Economic Coercion on Contemporary International Law"), environmental protection law (B. Krzan, "A Different Drum: The UN Security Council and Climate Change"), rules related to the use of force (M. Kowalski, "Neutrality and Its Lost, Double Ratio Legis"; V. Vadapalas, "Emerging Prohibition of the Use of Nuclear Weapons"; and A. Millet Devalle, "La régionalisation du droit du désarmement et de la non-prolifération: fertilisation du droit international des armes?") as well as migration (R. Wieruszewski, "Ius Migrandi – Is It Part of International Law?"). The reviewed work is therefore cross-sectional in nature, presenting valuable views on topics located in various subfields of international law.

The third group of contributions consists of studies referring to specific events in international law or specific documents or rulings. Particularly noteworthy is Balmond's examination on the current crises – including in Ukraine and the Gaza Strip (L. Balmond, "Ukraine, Haut Karabakh, Israël et Gaza: la sécurité collective en question"), a study on EU smart sanctions (K. Kowalik-Bańczyk, "EU Smart Sanctions after February 2024 – An Element of a New Approach") and the resolution "Uniting for Peace" (A. Kleczkowska,

"Resolution 377 "Uniting for Peace": UN General Assembly Powers and the Prohibition of the Use of Force").

The fourth group of contributions consists of studies on Polish-German relations. There are three texts by J. Barcz ("The Contribution of Professor Władysław Czapliński to Research on the Legal Aspects of Polish-German Relations on the So-called Reparation Campaign"), S. Oeter ("Challenged Reciprocity: The German Minority in Poland and the Polish Minority in Germany") and D. Richter ("Polish-German Encounters").

CONCLUSIONS

The book under review deserves to be highly rated. The selection of authors from the best international law scholars results in a very valuable work, attractive to both Polish and foreign readers interested in international law. An additional advantage of the work is a full list of publications of Professor Czapliński.