

*Pavel Šturma**

THE ROLE OF YEARBOOKS OF INTERNATIONAL LAW IN THE CENTRAL EUROPEAN COUNTRIES

Abstract: *Yearbooks of international law are publications common to many countries. The present contribution aims at presenting the argument that the yearbooks in the Visegrád countries play an extremely important role for the national academia and its identity and visibility in the globalized world. The argument is justified by an excursion to the common history of the academia in these countries, in particular during the years of communist régime and the transformation in the 1990s. The lack of specialized journals and other publications on international law in English, together with the internal and external stress on publication activities, makes them very precious.*

Keywords: academia, doctrine of international law, publications, Visegrád countries, yearbooks

INTRODUCTION

The present contribution examines the role of national yearbooks of international law from the Visegrád (V4) countries' perspectives. It seems that the theoretical and methodological background of this contribution is anchored in comparative international law. This recent approach in international legal doctrine rightly reflects the fact that international law, despite its quest for universalism (meaning both universal values and universal application), is largely influenced by and depends on national approaches.¹

If international law is what international lawyers make of it and how they interpret it, then it is necessary to look at the developments of academia in this part of Europe. It also makes sense to focus on the modern history rather than on the older times. In spite of the very interesting personalities and works in the more distant past, the contemporary approaches to international law can be best explained against the background of the past 70 years.

* Professor and Head of the Department of International Law, Charles University Faculty of Law (Prague); Member of the UN International Law Commission; e-mail: sturma@prf.cuni.cz; ORCID: 0000-0001-9936-2615.

¹ See A. Roberts, *Is International Law International?*, Oxford University Press, Oxford: 2017.

This article posits that the emergence and/or renewal of yearbooks of international law should be seen in a comparative perspective and against the background of the conditions for legal research and publishing in the Central European countries. Such an approach makes it possible to test the hypothesis that the yearbooks in the V4 countries play an indispensable role for the national academia and its identity and visibility in the globalized “invisible college of international lawyers.”²

One may start with the question: Are there any common traditions in academia of the V4 countries before and after 1990? To answer this question the study has to take into account that the countries under scrutiny have shared the common tradition of legal culture in Central Europe, which emerged mainly from the Austrian (and partly German) culture. While 1918 meant a discontinuity with the old regime (i.e. the Austro-Hungarian monarchy) in politics and diplomacy, it was not such a sharp break when it comes to legal culture and education. Indeed, the newly-acquired statehood of the nations under review (except for Hungary) created an opportunity for the development of education and research in national languages and for opening new universities and law faculties, which eventually made possible the emergence of nation-based doctrines of international law. Nevertheless, with the exception of the Slovakian academia (which only emerged during the first half of the 20th century), they were able to build on older traditions.

By contrast, the post-1945 developments – and in particular the victory of communist regimes in Czechoslovakia, Hungary and Poland – gave rise to elements of discontinuity. During that period, and especially in the 1950s, law in general, including international law, was not considered a matter of priority. This led to a limitation on the number of law students and sometimes even of the faculties of law. For example, in Czechoslovakia, the number of law faculties was reduced to two (in Prague and Bratislava).

At the same time however, the research was not actually discontinued but was largely removed from universities to the Institutes of Law (or Legal Sciences) of the nationwide Academies of Sciences. Although they could sometimes refer to older traditions, they were reconstructed under the Soviet model. It is fair to admit that this however had some advantages, as in most cases, in particular in the 1960s, these academic Institutes provided for better conditions and sometimes even greater academic freedom for researchers.

1. ACADEMIA AND THE ACADEMIES: THEIR ROLE IN EMERGENCE OF INTERNATIONAL LAW PERIODICALS

There is a kind of parallel development in the V4 countries. The Czechoslovak Academy of Sciences was established in 1952 and its Institute of Law in 1955 (via

² To borrow the term from the well-known O. Schachter, *The Invisible College of International Lawyers*, 72 Northwestern University School of Law Review 217 (1977).

a merger of several units focused on legal research). The Slovak Academy of Sciences came into existence in 1953, when the Institute of State and Law was established. Similarly, in Poland the Institute of Law Studies was established in 1956 on the basis of two already-existing departments of the Polish Academy of Sciences. Finally, the Hungarian Academy of Sciences, while it referred to its origins in the Hungarian National Academy from 1831, was transformed by law in 1949 into a Soviet-type Academy. This enabled the emergence of the Institute for Legal Studies during that period (since 1951). Obviously these Institutes, together with similar institutes in other countries of Eastern Europe, had close relations. Academic cooperation among the researchers in the same field has always been quite natural. Moreover, it was strengthened by a certain separation (if not rivalry) between the Academies of Sciences and universities and the limited possibility for cooperation with colleagues in the West.

The situation changed in the 1990s due to the fundamental political changes in the region, including in the countries examined herein. This led to, *inter alia*, an increase in the number and role of universities that became the main centers of both education and research. This shift seems to have been more important in the humanities and social sciences than in the natural sciences. At the same time, Academies of Sciences in all V4 countries underwent a more or less deep reform and continued to exist, maintaining their existence as Institutes of Law or Law Studies, although in a reduced form. From this perspective, the Institute of Law Studies of the Polish Academy of Sciences in Warsaw is the largest institution in comparison with the other institutes in Prague, Bratislava and Budapest. It has benefited from the largest number of researchers and maintained its influence in the Polish academia. The institutes of the Czech Academy of Sciences (the successor of the Czechoslovak Academy since 1993) and of the Slovak Academy of Sciences have survived the transformation period in 1990s on the same premises, but with reduced budgets and a reduced number of research fellows.

The role of the academic Institutes of Law has been mentioned here because it has also played an important role in the establishment and development of yearbooks and other periodical publications on international law. They need to be highlighted in view of their significant place among academic publications in the field of international law. Here again, a comparison of such publications in the four countries shows, perhaps not surprisingly, many common or parallel features but also some differences.

2. A LONG WAY TO THE CONTEMPORARY YEARBOOKS OF INTERNATIONAL LAW

The yearbooks and journals of international law in the V-4 countries have had a complicated history. This is particularly true for the publications in Czechoslovakia and its successor states. The first of them was the Journal for International Law (*Časopis*

pro mezinárodní právo), published in the Czech language by the publishing house of the Czechoslovak Academy of Sciences in Prague from 1957 until 1971. This journal, with its four issues per year, received submissions/contributions on both public and private international law from the leading Czech and Slovak academics and practitioners. Its quality, in particular in the 1960s, was comparable to foreign journals of international law. It was discontinued for political reasons after the suppression of the democratic reform movement (the so-called “Prague Spring”) by the Soviet intervention in 1968, because some articles or their authors became unacceptable.³

The second periodical that existed in Czechoslovakia in the past was *Studies in International Law (Studie z mezinárodního práva)*, published by the same publisher “Academia” in Prague. This was a different kind of publication, more similar to a yearbook than a journal, and also appeared less regularly (mostly one volume per year). The *Studies in International Law* accepted longer texts on various topics of public and private international law, and even on EC law, which was a little known branch of law in socialist Czechoslovakia before 1990. Although most contributions came from Czech and Slovak authors and were written in their mother tongues, the *Studies* also accepted, in particular in the 1980s, contributions written in other languages (English, French, and German) and even by foreign authors. This trend became stronger in the late 1980s. However, the story ended with volume 23 of *Studies* in 1990. This time, the reason for the discontinuation was not political but economic in nature. The first years of the economic transformation and the breakthrough of the market economy in the early 1990s brought about a disruption, or at least major financial problems, for publishers of academic publications.

It is a kind of paradox that the Czech and Slovak international lawyers had more opportunities to publish in their specialized periodicals in Czechoslovakia in the 1960s or 1980s than in the free, democratic and economically-growing Czech Republic. Therefore, some international lawyers who felt strongly that this gap would put the Czech doctrine of international law in a marginal position in comparison to their foreign colleagues decided to come out with the project for the *Czech Yearbook of Public and Private International Law (CYIL)*.⁴ It was established by the *Czech Society of International Law (CSIL)* in 2010. It appears regularly in autumn of each year, having already published 11 volumes by the end of 2020. The latest issue, which appeared in December 2020, includes a thematic section on “The 70th Anniversary of the European Convention on Human Rights.”

³ See e.g. A. Čepková, *Pakty – nový standard lidských práv* [Covenants – a new standard of human rights], 12 *Časopis pro mezinárodní právo* 365 (1968); G. Mencer, *K pojmu a podstatě intervence na pozvání* [On the concept and substance of the intervention on invitation], 13 *Časopis pro mezinárodní právo* 2 (1969); G. Mencer, *Ius cogens a zásada nevměšování* [Ius cogens and the principle of non-intervention], 13 *Časopis pro mezinárodní právo* 162 (1969)

⁴ See www.cyil.eu. Cf. also P. Šturma, *Czech Yearbook of Public and Private International Law on the Occasion of Its 10th Anniversary: Achievements and Perspectives*, 50 *Netherlands Yearbook of International Law* 111 (2019).

This Yearbook is published by the CSIL in conjunction with the Czech-German publisher RWW. Unlike the previous Czechoslovak publications on international law (i.e. the *Journal and Studies*), it does not have institutional support from any university or the Czech Academy of Sciences.⁵ However, it plays an important role in the small but dynamic Czech community of international lawyers. The Boards of the CSIL and its Czech Yearbook aim at maintaining their inclusive character, involving members from both the academia (mainly the Law Faculty of Charles University but also other academic institutions) and the practice (in particular, the Ministry of Foreign Affairs).

Quite similarly, even the smaller Slovak Society of International Law has also produced its own publication, the *Slovak Yearbook of International Law* (*Slovak Yearbook*).⁶ It commenced with its first volume already in 2008. In its early years, the *Slovak Yearbook* accepted articles not only in English but also in Czech or Slovak. Later, it turned into a fully English language publication. As of the time of this writing, its latest issue was volume VIII (2019), and volume IX (2020) is forthcoming. A distinctive feature of the Slovak Society and its Yearbook is the fact that for a considerably long time the driving force behind the activities stayed within the Ministry of Foreign Affairs rather than in the several faculties of law in Slovakia.⁷

Obviously, thanks to the traditional and intense relations between the respective Czech and Slovak academics of international law, there are regular contributions of Slovak authors in the *Czech Yearbook* and, to a lesser extent, Czech contributions in the *Slovak Yearbook*. In both countries the respective Yearbooks have filled a gap that had lasted for many years, a gap which was mainly due to the lack of specialized journals of international law.

By contrast, there is a continuity of publishing the *Polish Yearbook of International Law*. It is a scientific journal established officially in 1966 and published by the Institute of Law Studies of the Polish Academy of Sciences and the Committee on Legal Sciences of the Polish Academy of Sciences, owners of the title.⁸ It is noteworthy, however, that the initiative to create that Yearbook came from the Polish Branch of the International Law Association (ILA) rather than from the Academy of Sciences. The first issue appeared in 1968, and this year (2021) the PYIL will mark a milestone with its publication of volume XL. The focus of the Yearbook is on public and private

⁵ Except for a modest grant (subsidy) to the Czech Society of International Law for its publication activities from the Council of Scientific Societies of the Academy of Sciences of the Czech Republic.

⁶ See www.syil.sk.

⁷ For instance, the Editor-in-Chief of the SYIL and Vice-president of the Slovak Society is Dr. Metod Špaček, who was the director of the International Law Department of the Slovak Ministry of Foreign Affairs. The other key members of the Board come from the faculties of law of University of Trnava and Pan-European University in Bratislava, respectively (i.e. Assoc. Prof. Dagmar Lantajová and Assoc. Prof. Katarína Šmigová).

⁸ See <https://pyil.inp.pan.pl/>; cf. also L. Gruszczynski, K. Wierczyńska, *Polish Yearbook of International Law: A History of Constant Change and Adaptation*, 50 *Netherlands Yearbook of International Law* 266 (2019). The authors are managing co-editor and deputy editor-in-chief of the *Polish Yearbook*. Both of them are either current or former fellows of the Institute of Law Studies.

international law as well as European law. As in past years, the Polish Yearbook is still published by the Institute through the Warsaw academic publisher Scholar. Indeed, the epistemic community of international lawyers in Poland is larger than in of the other Central European countries. This fact, together with its continuity of existence and institutional support, explains why the Polish Yearbook has an ambition to play the leading role in that region.⁹

The situation in Hungary shows certain similarities, but also some differences in relation to the other countries. In the past, the Hungarian Branch of ILA and the Hungarian Academy of Sciences (HAS) and its Institute for Legal Studies initiated and ensured the publication of Questions of International Law. It was a publication somewhat similar to the then-Czechoslovak Studies in International Law. Between 1962 and 1991, the Akadémiai Kiadó (HAS publishing), in cooperation with the Dutch publisher Sijthoff, produced several volumes of studies in English. The second series finished in 1991 with volume 5, edited by prof. Hanna Bokor-Szegö. All in all, it was a less- than-regular (i.e. annual) publication, but it may be considered, *cum grano salis*, as a predecessor of a yearbook. Like the Czechoslovak Studies, the publication of Questions was discontinued in the early 1990s during the difficult years of economic transformation in all Central and Eastern European countries.

It thus happened that the Hungarian Yearbook of International and European Law¹⁰ was created later than the Czech and Slovak counterparts; only in 2013. However, similarly to those countries, the long period of discontinuity and the increasing number of scholars specialized in international and EU law in the universities (Hungary has eight Faculties of Law now) may be among the reasons why the Hungarian Yearbook did not maintain links to the HAS Institute for Legal Studies. Instead, it was established by a group of younger professors of international law and EU law at the Pázmány Péter Catholic University, Faculty of Law in Budapest.¹¹ It appears regularly in English and is published by Eleven International Publishing in The Hague. Like the Czech and Polish yearbooks, the Hungarian Yearbook is also published in both print and electronic versions. The latest issue of the Hungarian Yearbook was volume 8 (2020), which includes a thematic chapter on “New Tendencies in the Law of Foreign Investments in European Law and Public International Law.”

3. FUNCTIONS AND IMPACT OF THE YEARBOOKS

One may ask why this contribution pays special attention to the phenomenon of Yearbooks in the four Central European countries? It is because they not only play

⁹ Gruszczynski and Wierczyńska, *supra* note 8, pp. 274-275.

¹⁰ See <https://hungarianyearbook.com>

¹¹ See M. Szabó, *The Past, Present and Future of the Hungarian Yearbook of International Law and European Law – An Evolving Story*, 50 Netherlands Yearbook of International Law 169 (2019). The author, editor-in-chief, is professor of European law at Pázmány Péter Catholic University.

a very important role for the international law academia inside these countries, but also for the presentation of national doctrines abroad. To assess their role among other similar publications in Europe and in the world, it is not sufficient to compare these four yearbooks with the other yearbooks in international law. There are at least three points that need to be taken into account.

First, all the above-mentioned yearbooks, perhaps with the exception of the Polish one, are younger than the “model” yearbooks in the West. It would be rather ambitious to attempt to compare them with the well-established and renowned examples, such as the British Yearbook of International Law (established in 1921), the German Yearbook of International Law (formerly *Jahrbuch*, since 1948), or *Annuaire français de droit international* (since 1955). Even some “smaller” national yearbooks (e.g. the Netherlands Yearbook or the Finnish Yearbook) have a longer history and a more stable institutional background. However, at least from the point of view of volume (i.e. number of articles or pages), some issues of the new yearbooks (in particular the Czech or Hungarian ones) can easily compete with their older Western “brothers.”

Second, and more importantly, now all the yearbooks around the world have to face the problem of their identity and impact. On the one hand, they compete with the others, namely law journals and electronic mediums, which are much faster in presenting and sharing new information and ideas among members of the epistemic community of international law. On the other hand, the yearbooks and their authors, both in the West and in the V4 countries, have to face the overwhelming dictate of the formalistic scientometric ranking of periodicals. There is a well-known discrepancy between the traditional position and recognition of a given journal and yearbook in its country (or even internationally), i.e. its factual impact, and the formal ranking used for establishing the so-called “impact factor” of the articles, which plays an important role in the academic evaluation.¹²

Of course, there is a growing resentment among lawyers toward this kind of ranking, which basically comes from the practice in natural sciences. However, since the academics are not able to change the externally-imposed rules and criteria, they have to try and live with them. This was the driving force that pushed the editors of some yearbooks (firstly the Czech one, later the Polish) to seek and obtain admission to the Scopus. Although this does not ensure for their yearbooks the top ranking, which is reserved only to journals indexed in the Web of Science, it has placed them within the second best category of journals. Indeed, in a situation when no single law journal in a country belongs to the top rank, the position of these yearbooks has improved. This may as a consequence lead to an increased number of articles submitted for peer review.

Third, and finally, the role of yearbooks in the V4 countries is highlighted by the fact that they are usually the only periodicals specialized in international law and one

¹² The paradoxes of ranking were aptly described by Jan Klabbers, *On Yearbooks*, 50 *Netherlands Yearbook of International Law* 46 (2019).

of few law journals in the respective countries published in English. This is the case not only in the Czech Republic¹³ and Slovakia,¹⁴ but also in Hungary¹⁵ and even Poland.¹⁶ In a sense, they play the dual role of journals and yearbooks of international law. In combination with the limited number of “top” international law journals in the US and Western Europe, which makes it extremely difficult for authors from the “semi-periphery” countries in Central and Eastern Europe to get their articles published therein, the national yearbooks provide a very precious opportunity for publication.

This means that these yearbooks present mainly a publishing platform for members of a national community of international lawyers wishing to present their theoretical or practice-based contributions to an international public. At the same time, they should not be and are not closed, but rather are open to foreign authors.¹⁷ This is not only a formal requirement for the appropriate ranking, but also an inherent quality of any good journal or yearbook.

In addition to scholarly studies and articles, the yearbooks also present documents and information on the respective state practice of international law, book reviews, and surveys of the bibliography of authors who belong to the national academia. This seems to be an equally valuable source of information, even in the era of Internet, because documents and publications in languages other than English (and possibly some other internationally-used languages, such as French and Spanish) remain unknown to foreign specialists. This is a common fate shared by authors from countries with “languages of limited distribution”, who are usually obliged to split their teaching and publication activities between English and their mother tongues. Most of them, with the notable exception of a few expats who are established in the academia or law practice abroad, have not resigned from the use of their native languages. They feel it is important to maintain and develop international legal terminology and to communicate information in a way accessible to both law students and other lawyers in the country.

All in all, the national yearbooks of international law in the V4 countries are far from being considered as historical or outdated kinds of publications. Quite to the contrary, they are future-oriented projects and play a key role in the integration, presentation,

¹³ In the Czech Republic, only two other journals, namely *The Lawyer Quarterly* (TLQ) in Prague and *International and Comparative Law Review* in Olomouc, accept articles in English on a regular basis. On some occasions, the Charles University Law Review – *Acta Universitatis Carolinae Iuridica* – also publishes contributions in English. See AUCI, Vol. 66, No. 4 (2020).

¹⁴ In Slovakia, the Slovak Yearbook was, when established, the only law journal in English. Since 2017, the *Bratislava Law Review* (BLR) has been published in electronic form by the Faculty of Law of Comenius University in Bratislava.

¹⁵ In Hungary, there is only one printed journal, in addition to the Hungarian Yearbook, which regularly accepts articles in English, i.e. the law journal launched by the HAS under the title *Acta Juridica Hungarica* / Hungarian Journal of Legal Sciences. However, there was also an e-journal Miskolc Journal of International Law, run by Professor Péter Kovács (Editor-in-chief) who left the Miskolc University for the ICC. The journal was closed in 2012 with the final issue of Vol. 9, No. 1.

¹⁶ In Poland, there are a few other journals, such as the *Polish Review of International and European Law* and the *Comparative Law Review*.

¹⁷ This feature is typical, in particular, for the Czech Yearbook and the Polish Yearbook.

and promotion of small, diversified, but rising communities of international lawyers in each of the countries. At the same time, they offer a chance to publish to foreign colleagues. Indeed, they have to face many challenges, such as financing constraints, costs of print and distribution, new technologies, and the like. Some of the Editorial Boards need to decide whether the Yearbook should be published in the country or moved to one of the international publishing houses. While the maintenance of such publications requires a tireless effort and constant adaptation, the yearbooks in the V4 countries seem to be gaining strong positions.