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## BOOK REVIEW: OUTLINE OF THE PUBLIC INTERNATIONAL LAW

Peter Rosputinský\*

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GÓRALCZYK, W.: *Outline of the Public International Law*. 16<sup>th</sup> Edition, updated by SAWICKI, S., Warszawa: Wolters Kluwer, 2015. 392 p. ISBN 978-83-264-8202-1.

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**Wojciech Góralczyk** (1924 – 1994) was one of the most distinguished and qualified Polish lawyers in the field of public international law. He studied at the Law Faculty of the Charles University in Prague and graduated from the Law Faculty of the University of Warsaw (Doctor of Legal Sciences: The Continental Shelf; Inaugural dissertation: The Width of the Territorial Sea and Its Delimitation). At the University of Warsaw he was a professor of public international law and a long-standing head of the Institute of International Law. He was internationally respected expert especially in the Law of the Sea. He took part in the conference codifying the Law of the Sea as a legal advisor of Polish delegation in 1958. Later (1974 – 1982) he represented Poland in conferences preparing comprehensive codification of the Law of the Sea in the United Nations Convention on the Law of the Sea. He also worked in a commission establishing the International Seabed Authority.

**Stefan Sawicki** was **Góralczyk**'s student and graduate from the Law Faculty of the University of Warsaw (Doctor of Legal Sciences: Consular Immunity from Jurisdiction; Inaugural dissertation: Investigation Activities of the Most Important NATO Members States' Military Attachés Accredited in Poland). He is a professor of public international law at the Law Faculty of the University of Warsaw and until recently he was the head of the Institute of International Law. He focuses mainly on topics within international diplomatic law, international consular law and the law of international organisations.

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The reviewed book entitled *Outline of Public International Law* [Prawo międzynarodowe publiczne w zarysie] is the 16<sup>th</sup> printing of the **Góralczyk**'s treatise first published in 1977 and updated by **Stefan Sawicki**. Although there are some publications on international law with more editions, it is quite unique in Poland as well as in the Central Europe in general to have so many editions of a single textbook. For example, second Polish reputable textbook about public international law (written by **Remigiusz Bierzanek** and **Janusz Symonides**) was published in eight printings and two most edited Czech books on public international law (first one written by **Miroslav Potočný** with **Ján Ondřej** and the second one written by **Jiří Malenovský**) were published in their 6<sup>th</sup> editions in 2011 and 2014, respectively. According to my information, there is no Slovak textbook on public international law with more than two editions. The above-mentioned popularity represents first reason for selecting exactly this book for my review. The second one is my ambition to introduce a less typical publication in our Slovak academic community because of books written in English, German or French are quoted more frequently than the ones written in other languages.

This updated book by **Sawicki** offers a good overview of public international law for those needing primary orientation in basic rules of conduct in international field. Authors use many examples to demonstrate the legal norms and their influence on subjects of international legal law. They give some explanations from Polish history or Polish realities, which are very helpful to catch some other aspects of international law naturally absenting in Slovak literature.

Generally, the structure of the reviewed book is corresponding with Slovak or Czech treatises aimed to explain fundamental principles of public international law for university students at law faculties. It means that it includes basic terms and institutions of public international law and briefly describes its most important branches. The distinction is that the book is not formally divided in two principal parts (General Part and Special Parts) like many Slovak or Czech publications. The systematics of the reviewed book is very simple. It contains a preface and 16 chapters: (1) General Problems; (2) Development of International Law; (3) Sources of International Law; (4) Subjects of International Law; (5) International Legal Relations, Events and Acts; (6) International Responsibility; (7) Territory; (8) The Law of the Sea; (9) International Air and Space Law; (10) State's Population; (11) Diplomatic Law and Consular Law; (12) International Organizations; (13) International Economic Treaties and

Organizations; (14) Settlement of International Disputes; (15) The Law Against War; and (16) The Law of Armed Conflicts. From this listing, we can identify some specifications in relation to Slovak textbooks. The main distinction represents separate chapters on the Law of the Sea and International Air and Space Law. In many Slovak (and Czech) books, these are rather included in general parts dedicated to international legal regulations. Similarly, the question of international economic cooperation and its legal normativity is dealt with in other chapters in Slovak counterparts, mostly together with general explanation of international treaties and international organisations.

In order to compare this publication with respectful Slovak or Czech textbooks I will point out its specific parts or ideas which are not common in latter ones. First, I refer to the opinion of authors that there is a new science on international relations, which has arisen next to the science on international law. The second one has narrower subject but some common points with the first one. Much more importantly, international relations create the basis for international legal norms and that study of international law in separation from international relations leads to formalism. Authors add on "*exploration of international relations has always to be a starting point for purely legal considerations*" (p. 23).

Another distinction represents one chapter dedicated to functions of international law. Authors classify the following as the most important tasks of public international law: regulation of external affairs of states; influence on internal matters of states (in the sense of coordination or unification of national legal orders); maintenance of international peace and security; progress of social and economic relations around the world; assistance in economic development including balancing disproportions between developed states and developing states, as well as protection of human rights and international environment.

Thereinafter, authors explicitly specify the normative decision of international organisations as source of international law. They determine that such a decision should meet two requirements: to have legal effects and to create new legal rules. They argue that the decision making process in international organisations leading to a legally binding act is much more different from the conclusion of an international treaty or the formation of customary norms. The second condition consisting in normative character of a decision means that the act of international organisation has to establish new regulation of conduct for future situations, which may occur in an illimitable

number. Authors analyse two sets of normative decisions of international organisations: (a) internal law of international organisations – they demonstrate two attitudes, namely perception of these norms as new part of international law or an autonomous branch of law besides national law and international law and prefer the first attitude; and (b) law created for states by international organisations in three ways: (ba) acts approved by unanimity vote of all states represented in particular organ of international organisation like in the Organization for Economic Co-operation and Development; (bb) system contracting out used in creation of technical rules in the International Civil Aviation Organization, the World Health Organization and the World Meteorological Organization or (bc) acts approved by majority vote with legally binding effect upon all member states like in the European Union and European Atomic Energy Community and some other institutions, which are not of supranational character as the Inmarsat and the International Seabed Authority.

Further, I would like to pay attention to the question of continuation of states, which is very interesting in case of Poland and Czechoslovakia, too. Authors claim that a state continues its existence with all rights and duties despite (a) the fact its territory is under occupation of other country, (b) the revolutionary change in government including change of social or political regime and (c) substantial changes of state borders. In Polish history, all these conditions were fulfilled during 1939 – 1945, but they did not cause disappearance of Poland as a state (in case of Czechoslovakia during the World War II authors made the same conclusion pursuant to *ius postliminii*). Finally, they state that Russia is not a continuation of the former Soviet Union.

In literature, there are many classifications of states. Besides some frequent classifications, authors describe land-locked states and states with unfavourable geographical location. The land-locked states, e.g. the Slovak Republic, the Czech Republic, Hungary, the Austrian Republic and approximately 40 other states, have no own sea-coast. These states had no right to a flag in the past. The situation changed in 1921 by the Declaration recognising the right to a flag of states having no seacoast. Nowadays, each land-locked state possesses all freedoms of high seas but is not entitled to declare territorial sea or other zones of seawaters. The category of states with inconvenient geographical location includes each state with access to sea, which is not able to claim full width of exclusive economic zone due to specific circumstances (e.g. Poland and the semi-enclosed Baltic Sea).

With respect to the determination of subjects in international law, authors advocate the broad definition. It means that each entity with rights and duties arising from international law possesses international legal personality. Authors set out state as sovereign territorial entity in contrast to non-sovereign territorial organisation not belonging to a state and not creating an independent state. This category of subjects is very rare in contemporary international relations; authors demonstrate examples of Andorra, and Monaco (both typically considered as sovereign states). The problem of individuals as subjects of international law is still not solved in the opinions of lawyers. Authors agree that individuals can have rights and obligations pursuant to international law and should be treated as persons in international law. Furthermore, they express opinion that it is possible to speak about international legal personality of international organisations' officials, provided the internal law of international organisations is accepted like part of public international law.

It is especially noteworthy to point out the chapter on events and their consequences in international law. Authors define this term as all events invoking legal effects in area of public international law. They produce the classification of events: (a) natural events – accomplished physical or natural facts which international law binds assigned rights and duties with (e. g. river-basin changes, shift of navigation canal in rivers or rise of new island in high sea) and (b) events connected with the people's activities not imputable to a state which cause some legal effects (e.g. import and export of goods, foreigners stay in state's territory or trespasser's escape through state borders).