



You have downloaded a document from
RE-BUŚ
repository of the University of Silesia in Katowice

Title: Norms and Institutions of the Congress of Vienna – 200 Years Later

Author: Magdalena Majos

Citation style: Majos Magdalena. (2016). Norms and Institutions of the Congress of Vienna – 200 Years Later. "Silesian Journal of Legal Studies" (Vol. 8 (2016), s. 160-163).



Uznanie autorstwa - Użycie niekomercyjne - Bez utworów zależnych Polska - Licencja ta zezwala na rozpowszechnianie, przedstawianie i wykonywanie utworu jedynie w celach niekomercyjnych oraz pod warunkiem zachowania go w oryginalnej postaci (nie tworzenia utworów zależnych).



UNIwersYTET ŚLĄSKI
W KATOWICACH



Biblioteka
Uniwersytetu Śląskiego



Ministerstwo Nauki
i Szkolnictwa Wyższego

THE IDEAS, NORMS AND INSTITUTIONS OF THE CONGRESS OF VIENNA – 200 YEARS LATER Warsaw, 15–16.10.2015

The conference “*Ideas, norms and institutions of the Congress of Vienna – 200 years later*” took place in Warsaw on 15 and 16 October 2015. It was organised by the International Law Association – Polish Group.

The aim of the conference was a legal reflection (mostly international law) on the legacy of the Congress of Vienna. The intention of the organisers was to study the “present day” and not the past, but to do so by looking at continuity with the past. The starting point was the hypothesis that the ideas, norms and institutions created by the participants of the Congress are still present in international law, either in their original formula, or as more modern ideas, or as norms and institutions.

The main objectives of the conference were focusing on verifying the belief that:

- “Westphalian order” is legally binding (should be) because it is “good” – therefore it is legitimised and is a legal order;
- The legitimacy of the “Viennese order”, even during the period of legality, was questionable, because it was a “bad” order.

The intention of the organisers was to study the “fruits” of the Congress of Vienna that are still obvious in the present: a rule of precedence diplomatic law, international rivers, neutrality, “the great powers” and the institutionalisation of international security, international organisations and international governance. In addition, controversial issues were studied, such as the “right to self-determination” in terms of subjective and objective law, and the methods and tools of multilateral diplomacy.

The deliberations were taking place over two days. On the first day there were two thematic panels, and on the second day they were three.

The participants of the conference were welcomed by Professor Jerzy Menkes. The debate was opened by historians of state and law, and historical and legal doctrines. This allowed the specialists of international law to reflect the matter, looking back on the past, not only to confront their own research approach and results of the deliberations with the historians, but also to enrich their reflections on the matter. The first speech was given by Professor Henryk Olszewski, who reminded all the participants of the assumptions and circumstances in which the Congress of Vienna occurred. Another speaker, Dr Paweł Cichoń, raised question about Poland at the Congress of Vienna. “*The Congress of Vienna – the idea of the restoration*” was the topic of Dr Marek Krzymkowski. The complicated matter of permanent wars and “perpetual peace” was presented by Professor Michał Jaskólski, and the first panel of the conference ended

with a speech of Professor Jacek Sobczak entitled – “*The Crimean War as an unintended consequence and the weakness of the Congress of Vienna? Where the lack of historical perspective can lead*”.

The second panel was opened with the lecture titled “*About (difficult) relations in the post-Westphalian configuration – a constitutional and pluralist approach to the post-national legal order*” by Professor Robert Grzeszczak. After this lecture, Professor Bartłomiej Krzan presented his talk on “*From the Holy Alliance for the Security Council*”. Dr Marcin Menkes then spoke on the subject “*200 years of the Congress of Vienna: from the harmony of force to the strength of harmony*”. The closing lecture was presented by Professor Jerzy Menkes, on the topic – “*The institutionalisation of international cooperation – continuity variation*”.

The proceedings ended with a lively discussion of the presented papers. The conference participants had the opportunity to ask questions to the speakers on the topics they presented in the individual readings.

The first day of the conference concluded with the ceremonial handing over of a commemorative book for Professor Lech Antonowicz. The monograph was titled “*The state and territory in international law*” and was edited by Jerzy Menkes and Ewelina Cała-Wacinkiewicz. It is an expression of the gratitude and recognition by the members of the Polish Group ILA for the Professor’s scientific, educational and organisational activities. The commemorative book is dedicated to the Professor, thanking him for his immense contribution to the development of the doctrine of international law, and his assistance in the development of the university.

The second day of the conference began with a speech given by Professor Anna Przyborowska-Klimczak, who presented a problem of “*Development of conference diplomacy – from the Congress of Vienna to recent international conferences*”. Next was Professor Brygida Kuźniak, who addressed the participants with a talk called “*The scientific basis of diplomatic protocol – a contemporary perspective*”. Then Mr David Michalski gave a brief statement in an attempt to find answers to the question: “*Does diplomatic protocol in the twenty-first century allow more?*” He presented protocol customs in the context of modern challenges, and reflected on the role of the First Lady and the First Gentleman in modern diplomacy. Professor Barbara Mielnik gave a presentation on “*Modern status of international rivers*”. She discussed international regulations as well as the issue of freedom of navigation. Professor Tadeusz Gadkowski followed this with his report entitled “*The Final Act of the Congress of Vienna – the source of freedom of navigation on international rivers?*”. He referred, among other things, to the lectures of Professor Bohdan Winiarski devoted to the role of waterways and ideas contained in the book “*Polish rivers from the position of international law*”.

The fourth panel of the conference began with a speech of Professor Barbara Mikołajczyk called “*The fight against slavery on a common forum*”. The Professor pointed out the most important legislation and presented statistics on human trafficking. She also presented new solutions to prevent slavery and human trafficking (for example, the elimination of forced labour, product certification etc.)

The next speaker was Dr Anna Magdalena Kosińska, who presented an issue of “*The nature of modern European irregular migration vs the Congress of Vienna on the abolition of the slave trade*”. She drew attention to the problem of irregular migration, in particular the protection of the rights of irregular migrants. In addition, the talk indicated that the criminalisation of migration is a legacy of the Congress of Vienna.

This was followed by Dr Joanna Markiewicz-Stanny, with a presentation entitled “*The development of international cooperation in the field of migration – new instruments to defend the permanent order*”. Then the paper “*Fundamentals Axiological standards of treatment of foreigners*” was presented by Dr Magdalena Słok-Wódkowska. The last speaker on the fourth panel was Professor Michal Kowalski with his presentation “*The international fight against slavery in the XXI century – focused on Article 4 of the European Convention on Human Rights*”. He pointed out three contexts of the cited regulation: the distinction between the slavery of servitude, forced labour and compulsory labour, as well as the lack of permissible restrictions. In his talk, he recalled the numerous judgments of the European Court of Human Rights.

The fifth panel began with a presentation by Professor Elżbieta Dynia on “*The right to self-determination and territorial integrity of the state*”. Among other issues, she pointed out doctrinal disputes over the right of secession. Professor Dynia also presented the views of Professor Lech Antonowicz, stating that self-determination cannot be achieved by losing the integrity of the country. Secession should be a method of exercising the right to self-determination (of course, going hand in hand with recognition). All this was presented using the example of Kosovo and the situation in the Crimea. The next speaker was Dr Władysław Pęksa, presenting on the topic: “*The concept of sovereignty in the history of law*”. Then Dr Karolina Wierczyńska spoke on “*The principle of complementarity before the ICC, from the perspective of national sovereignty*”, where she referred to the request made by the Prosecutor to the International Criminal Court in The Hague for authorisation to initiate an investigation on the situation in Georgia, and whether, in 2008, in connection with the Georgian-Russian conflict, any crimes had been committed within the jurisdiction of the Court. Next was Dr Agnieszka Wedeł-Domaradzka with her talk on “*The free cities in international law – selected problems*”.

The next speaker was Dr Marta Pietras-Eichberger, who presented the topic “*Modern consequences of permanent neutrality*”. This took as its starting point the perpetual neutrality of Switzerland, which is a legacy of the Congress of Vienna. She focused her attention on the certain shift in perpetual neutrality, and on the decisions taken by neutral countries. Next Dr Tomasz Srogosz spoke about “*Neutral states and Cyberspace*”, identifying a number of threats such as cyberwar and cybersabotage. In cyberspace there are no national borders and all states are neutral. Still states neutrality in virtual reality should be connected with the declaration that the territory of a state is inviolable. The speaker pointed out that the effects of cyberattacks may take place in the real world – in the country (server locations), and that, although the cyberattack is not performed with the use of armed force, it is still a violation of territory.

Dr Dobrochna Bach-Golecka presented the subject of “*The law of the nation and the right of people: reflections on the concept of raison d'état*”. Then Professor Jacek Barcik delivered a speech titled “*Congress of Vienna as the original source normative legal theory in terms of Hans Kelsen*”. He discussed the theoretical considerations of Hans Kelsen on international law, stressing that the “purity” of a rule of law is manifested in the law that is, being ideal, detached from religion and morality.

Next we heard “*International law – waiting for a breakthrough*” delivered by Dr Michał Stępień and Dr Wojciech Konaszczuk speech on “*The effectiveness of international law in practice – Yukos vs Russian Federation*”. The last speaker was Dr Maria Lewandowicz with her talk on “*The new order in Europe – the impulse for the construction of a system of private law in Switzerland*”.

The proceedings ended with a lively discussion of the papers presented. The conference was summarised by Professor Jerzy Menkes, who merged all the issues discussed. The Professor expressed his warm thanks for a wonderful atmosphere, and a large attendance at the conference.

All panels on the conference presented independent parts of a larger topic. Their task was to present the legacy of the Congress of Vienna, including the experiences of that period, which has become a map for countries further down the road of international relations. It is worth noting that the standards, ideas and institutions developed during the Congress are present in international law, either in their original formula, or as more modern ideas, norms and institutions. Reaching into the past to explain the current state of international law is necessary, since it determines the present day.

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