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Edited by

Lauri Mälksoo, Ineta Ziemele and Dainius Žalimas



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Editorial Foreword

*Dainius Žalimas**

At a time of profound geopolitical shifts, international law is not merely a set of rules – it is the frontline where the future of global security, democracy, human rights and the rule of law is being decided. Wars, environmental crises, financial instability and rapid digital transformation are pushing the international legal order to its limits, testing its resilience and ability to safeguard the fundamental principles of humanity. The strength of this order lies in its capacity to evolve, adjust, innovate and provide concrete solutions to emerging challenges. Legal scholarship plays a crucial role in these efforts, shaping responses that ensure that international law remains a driving force for justice rather than a relic of the past. This volume of the *Baltic Yearbook of International Law* contributes to this mission by addressing some of the most urgent legal questions of our time, such as accountability for the most serious of crimes, the restoration of statehood, environmental protection, energy security, digital transformation and artificial intelligence.

The articles published in this volume highlight Lithuania's evolving legal tradition and engagement with international law, demonstrating how the country is navigating the complex interplay between national, European and international legal developments. The authors analyse Lithuania's efforts to harmonize domestic law with European Union (EU) and international legal standards across diverse areas. They reveal the progress and the gaps in the implementation of these standards, as well as areas where judicial practice compensates for regulatory shortcomings. Moreover, the research conducted by the authors confirms the role of Lithuania as a proactive contributor to global legal discourse – ranging from universal jurisdiction to digital asset enforcement. Lithuania demonstrates a capacity to both adapt itself to evolving legal standards, and to take part in shaping and advancing them. The articles also identify key areas for further research and debate in the field of international law.

In the first article, **Tomas Berkmanas** explores the (re)birth of a state through the lens of the restoration of Lithuanian independence, offering an innovative perspective on the role of language in revolutionary change and

* Member of the European Parliament, Member of the European Commission for Democracy through Law (Venice Commission) and Visiting Professor at the Vytautas Magnus University (Lithuania).

the formation of new political authority. The central theoretical premise of his research is that revolutions are realized through words. Instead of adopting a traditional historical or legal approach, the author analyses speeches by Lithuanian independence leaders and identifies a three-stage legal-ideological/philosophical progression: materialism, where economic and social concerns fuel mobilization; naturalism, which asserts inherent rights and self-determination; and finally, positivism, where state rebirth is formalized through legal regulation. This research offers new insights for international law, particularly in deepening the understanding of democratic state recognition formulas.

In the second article, **Jurgita Grigienė, Paulius Čerka, Silvija Gervienė and Dalia Perkumienė** analyse the application of universal jurisdiction, with a particular focus on war crimes and crimes against humanity. They trace the historical development of this principle, its diverse implementation across jurisdictions and its incorporation into Lithuania's legal framework. Adopting a case-oriented approach, the authors conclude that recent developments indicate a more assertive application of universal jurisdiction, as Lithuania has begun pre-trial investigations into crimes committed in Belarus and Ukraine – cases in which neither the perpetrators nor the victims have direct ties to the country. For reasons difficult to comprehend, Lithuania remains the only country in the world, which is conducting an investigation into crimes against humanity in Belarus, and which has referred the situation in Belarus to the International Criminal Court. However, it is also impossible to explain why, during more than four years of investigation, Lithuania has not named any suspects and has not issued any arrest warrants, although the perpetrators are well known in some cases. This fact makes us less optimistic about the effectiveness of universal jurisdiction.

In the third article, **Saulė Milčiuvienė, Julija Kiršienė, Darius Amilevičius and Gailius Raškinis** explore the impact of the European Union Digital Strategy on the regulation of Lithuania's energy market, focusing mainly on digital technologies and their implications for energy policy. Their analysis highlights both the opportunities that digital tools, such as smart meters, offer in improving energy efficiency and transparency, and the risks of digital exclusion, particularly among vulnerable consumers. While Lithuania has made progress in implementing the EU directives, the authors argue that its current approach prioritizes economic efficiency over inclusivity, potentially widening inequalities in energy access. The authors propose a more balanced regulatory framework which should ensure that technological innovations do not come at the cost of social equity.

The fourth article in this volume is written by **Marijus Šalčius**, and deals with the influence of EU law on the evolution of state tortious liability in Lithuania. The author specifically analyses how state liability for damage caused by criminal proceedings developed in Lithuania and the influence that EU law has had on this evolution. The author highlights that Lithuania's system of tortious liability remains relatively new and is continuing to develop, with EU law playing a key role in this evolution. However, he identifies significant gaps in Lithuania's legal framework, particularly the reliance on a "finite list" of criminal procedural acts for which the State assumes liability. This approach limits the compensation for damages and does not fully align with the requirements of EU law. In the absence of appropriate legal regulation of this field, the protection of human rights in Lithuania is being safeguarded purely by judicial practice. The author concludes that although national judicial practice is currently serving as an effective remedy for the protection of a person's interests, Lithuania should strengthen its legal framework to provide greater legal certainty and to fully meet its obligations under EU law.

The fifth article, authored by **Linas Meškys**, deals with the implementation of EU Directive 2004/35/EC on environmental liability (ELD) in Lithuania, focusing on the challenges associated with the determination of environmental damage. A key issue identified in the article is Lithuania's reliance on a theoretical model for calculating the extent of environmental damage, which is enshrined in the methodology approved by the Lithuanian Minister of Environment. Despite the recently adopted decision by the Lithuanian Supreme Administrative Court to confirm the compliance of this methodology with the requirements of EU law, the author raises reasonable legal doubts about this conclusion.

The sixth article, written by **Edita Gruodytė**, explores the impact of EU law on the development of environmental criminal liability within its Member States. Taking Lithuania as a case study, the author examines whether EU Directive 2008/99/EC *On the Protection of the Environment through Criminal Law* has an impact at the national level and what this impact is exactly. The research reveals that Lithuania had already introduced criminal liability for many environmental crimes in its Criminal Code prior to the enactment of Directive 2008/99/EC. This suggests that Directive 2008/99/EC had a limited effect on the development of Lithuania's legal framework in this area. However, the author identifies specific deficiencies in Lithuania's implementation of Directive 2008/99/EC, highlighting areas that require improvement to ensure full compliance with EU environmental law. This research offers valuable insights into Lithuanian regulation, judicial practice and statistical data

on environmental crimes, contributing to a broader understanding of the practical implications of EU environmental law at the national level.

The seventh article, written by **Evelina Žurauskaitė**, is devoted to Lithuania's membership of the International Labour Organization (ILO). After exploring membership issues through a historical lens, the author delves into the interaction between ILO labour standards and EU regulation, assessing their compatibility and the practical implications for EU Member States. The research highlights tensions between international and European labour standards, particularly in cases where ILO conventions and EU directives overlap. Despite the existing challenges, the author argues that international labour standards remain valuable in complementing the EU social *acquis*, as exemplified by part-time work regulation.

The eighth article, co-authored by **Albertas Milinis**, **Kristina Pranevičienė** and **Neringa Gaubienė**, has the title "Cross-Border Enforcement Involving Digital Assets: a Lithuanian Legal Perspective on International Frameworks and Challenges". The authors provide a comprehensive analysis of the complexities surrounding digital assets in civil enforcement, highlighting key challenges such as the absence of a universally accepted definition of digital assets, the need for specialized technical expertise and the lack of clear regulatory guidelines for digital civil enforcement. They stress that effective enforcement requires a modernized legal framework, specialized training for legal practitioners and enhanced international cooperation.

The ninth article in this volume, co-authored by **Žaneta Navickienė**, **Rolandas Krikščiūnas**, **Mindaugas Bilius** and **Daiva Milienė**, explores the role of pre-trial investigation planning in financial crime cases. The authors emphasize that modern financial criminal investigations demand not only specialized knowledge, but also thorough preparation and cross-border coordination. They conclude that joint investigation teams and a well-structured plan for investigative actions and measures are crucial for effective investigation of financial crimes.

In addition, this volume also contains two substantive articles in the general articles section. In the first general article, **Vilenas Vadapalas** examines the prohibition on the threat or use of nuclear weapons in contemporary international law. He argues that contemporary international law is moving towards a universal prohibition on the threat or use of nuclear weapons in all circumstances. In particular, an original and comprehensive interpretation of the ICJ's advisory opinion in the *Nuclear Weapons* case has been provided. In the second article, **Pēteris Zilgalvis** explores the challenges and opportunities of artificial intelligence related to its use in the judicial sphere. The author argues that AI governance must balance technological advancement

with transparency, human rights and judicial integrity, ensuring that AI strengthens, rather than undermines, the rule of law and judicial independence.

On behalf of the editors of the *Baltic Yearbook of International Law*, I hope that this volume meets the expectations of its readers. The *Baltic Yearbook* remains committed to fostering meaningful debate, advancing legal thought and ensuring that international law remains a cornerstone of global security, democracy and justice.

