

7TH-8TH OCTOBER 2019

# THE PUNISHMENT OF NEGATIONISM

*Memory Law –  
International Crimes  
and the Problem of the Denial*

**Conference organized by  
the Justice Institute  
and the Faculty of Political Science  
and International Studies  
of the University of Warsaw**

*Place: Aula Baszkiewicza  
Collegium Politicum, University of Warsaw*

Krakowskie Przedmieście 26/28, Warsaw



FUNDUSZ  
SPRAWIEDLIWOŚCI



MINISTERSTWO  
SPRAWIEDLIWOŚCI

[www.ms.gov.pl](http://www.ms.gov.pl)



UNIVERSITY  
OF WARSAW



Faculty of Political Science  
and International Studies  
University of Warsaw

Co-financed from the means of the Justice Fund administered by the Minister of Justice

## 10.00 Registration

## 10.30-11.00 Opening of the Conference

Welcome remarks by:

- **Daniel Przastek** - Vice Dean for Finance and Development, Faculty of Political Science and International Relations of the University of Warsaw
- **Marcin Wielec** - Director of the Justice Institute

Introduction:

- **Bartłomiej Oręziak** (Justice Institute)
- **Patrycja Grzebyk** (University of Warsaw)

## 11.00-13.00 Panel I Obligation to Punish Negationism

Chair: **Magdalena Słok-Wodkowska** (University of Warsaw)

- **Agnieszka Bieńczyk-Missala** (University of Warsaw) - *Causes and Consequences of Negationism*
- **Anna Potyrała** (Adam Mickiewicz University of Poznań) - *Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law and the need to reform Polish law*
- **Sévane Garibian** (University of Geneva) - *Some Reflections on the Perinçek v. Switzerland case before the European Court of Human Rights*
- **Piergiuseppe Parisi** (University of Trento) - *The Obligation to Criminalise Historical Denialism in a Multilevel Human Rights System*

## 13.00-14.00 Lunch

## 14-16.00 Panel II Negationism, Totalitarian past and Freedom of Expression

Chair: **Bartłomiej Krzan** (University of Wrocław)

- **Alexander Tsesis** (Loyola University of Chicago) - *Genocide Denial and Genocide Negation*
- **Aleksandra Gliszczyńska-Grabias** (Polish Academy of Sciences) - *The Jurisprudence of the European Court of Human Rights in the Area of Europe's Totalitarian Past - selected examples*
- **Marcin Górski** (University of Łódź) - *The Art of Negationism. Balancing Freedom of Artistic Expression and the Right to Truth?*
- **Mattias Fahrner** (University of Konstanz) - *Back to the Roots – The Obligation(s) to Punish Negationism in Germany*

## 16.00-16.30 Coffee break

## 16.30-18.30 Panel III Negationism in law and jurisprudence of states

Chair: **Szymon Pawelec** (University of Warsaw)

- **Vassilis P Tzevelekos** (University of Liverpool) and **Dimitrios Kagiarios** (University of Exeter) – *The Contribution of the Greek Legal Order to the Shaping of International Standards Pertaining to the Criminalisation of Negationism*
- **Athanasios Chouliaras** (Hellenic Open University) - *Criminalizing negationism in Greece: legislative choices and judicial application*
- **Grażyna Baranowska** (Polish Academy of Sciences) – *Penalizing statements about the past in Turkey*
- **Charis Papacharalambous** (University of Cyprus) - *Incrimination of Negationism: Doctrinal and Law-Philosophical Implications*

## 9.00-11.00 Panel IV Negationism in law and jurisprudence of states

**Chair: Karolina Wierczyńska** (Polish Academy of Sciences)

- **Ireneusz Kamiński** (Polish Academy of Sciences) - *Debates over history and the European Convention on Human Rights*
- **Łukasz Pohl** (University of Szczecin/Justice Institute) and **Konrad Burdziak** (University of Szczecin) - *Negationism and Polish criminal law – dogmatic considerations*
- **Nedžad Smailagić** (University of Zagreb, Sarajevo School of Science and Technology) - *Denial of Atrocity Crimes Committed in the Former Yugoslavia: Criminal Law and Transitional Justice Considerations*
- **Veronika Bílková** (Charles University) – *Punishment of Negationism - Czech Experience*
- **Tamás Hoffmann** (Hungarian Academy of Sciences) - *Punishment of Negationism in Hungarian Criminal Law – Theory and Practice*

## 11.00-11.30 Coffee break

## 11.30-13.15 Panel V Civil Responsibility for Negationism

**Chair: Patrycja Grzebyk** (University of Warsaw)

- **Bogusław Lackoroński** (University of Warsaw) - *Civil Law Protection of the Reputation of the Republic of Poland and the Polish Nation in the Light of Art. 53o-53q of the Act on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation – selected issues*
- **Aleksandra Mężykowska** (Ministry of Foreign Affairs/Polish Academy of Sciences) - *History distortion cases - protection of personal rights of victims of mass violations of human rights in the jurisprudence of the ECtHR*
- **Klaus Bachmann** (SWPS University of Social Sciences and Humanities) - *Civil responsibility in the context of Holocaust denial and memory laws in Germany and Poland*
- **Andrii Nekoliak** (University of Tartu) - *Regulating Historical Memory through Civil Responsibility for Negationism: the Case of (Un)empowered norms in Ukraine?*

## 13.15-13.30 Conclusion

- **Patrycja Grzebyk** (University of Warsaw)



FUNDUSZ  
SPRAWIEDLIWOŚCI



MINISTERSTWO  
SPRAWIEDLIWOŚCI  
[www.ms.gov.pl](http://www.ms.gov.pl)



UNIVERSITY  
OF WARSAW



Faculty of Political Science  
and International Studies  
University of Warsaw

## OUR PANELISTS AND THEIR ABSTRACTS



**Agnieszka Bieńczyk-Missala**  
(University of Warsaw)

### Biography:

Prof. Agnieszka Bieńczyk-Missala – Assistant professor at the Faculty of Political Science and International Studies, University of Warsaw, Chairman of the scientific project Prevention of Massive Violations of Human Rights, financed by Poland's National Scientific Centre (2013-2017); participant in the European Project "NOHA - Network on Humanitarian Assistance" and EU Non-Proliferation Consortium; Deputy Director for Academic Research and International Cooperation (2008-2012); Analyst at the Polish Institute of International Affairs (2006-2008). PH.D. title received from University of Warsaw in 2004 (dissertation title: Human Rights in Poland's Foreign Policy). Participant in Youth Leadership Program at the University in Chengdu (March 2017), Participant in Georgetown Leadership Seminar at the Georgetown University in Washington – Jan Karski Educational Foundation scholarship (October 2016). Participant in the V4 Task Force on the Prevention of Mass Atrocities in cooperation with Budapest Centre for the International Prevention of Genocide and Mass Atrocities (2016-2017). Agnieszka Bieńczyk-Missala's areas of research interest include: human rights, international humanitarian law, mass atrocities, humanitarian assistance. Teaching activities: international protection of human rights, human rights in international relations, international humanitarian law, international crimes (both Polish and international studies programs, graduate and undergraduate). Author of numerous publications.

### Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law and the need to reform Polish law

By introducing the Framework decision of 2008, the EU member states opted for a common criminal law approach towards racism and xenophobia. This two-element approach comprises of recognizing the same behaviour as an offence in all member states, and imposing effective penalties on perpetrators. The aim of the presentation is to analyze acts regarded as racists and xenophobic in the light of the framework decision and consequently, to point measures considered as essential to punish those responsible. These considerations will be the starting point for setting out Polish context, namely the necessity to reform Polish criminal law.

### Causes and Consequences of Negationism

Negationism is a rejection of the truth – empirically verifiable reality, which hinders reconciliation between perpetrators and victims, and can contribute to the promotion of violence. The motivations and causes of negationism are cultural, political, economic and psychological. The latter is associated with the phenomenon of repression, which is identified in the perpetrators shortly after the crime and results in denial. An analysis of negationism at the individual, group or state level indicates above all the desire to avoid or minimize responsibility for crimes. It may indicate a willingness to manipulate memory and reinterpret history. It can be a result of anti-Semitism, racial, national and ethnic prejudices, as well as reveals attitudes that promote ideologies leading to violence, including fascism.



**Anna Potyrała**  
(Adam Mickiewicz University of Poznan)

### Biography:

Anna Potyrała – Adam Mickiewicz University of Poznan professor. She graduated in Political Science in 1999 and Law in 2001. Since 1999 she has been working at the Department of International Relations at the Faculty of Political Science and Journalism. Her publications, among others, include books: "Contemporary refugees" (2005); "State cooperation with international criminal tribunals and sovereignty" (2010); "The EU towards international criminal tribunals. Genesis, concept and practice of cooperation" (2012); "The UN towards the refugee problem – genesis, concept and practice of activity" (2015); and the latest "Migration crisis 2019+. Between solidarity and particularism" (2019). Her research comprise EU Justice and Home Affairs, international criminal tribunals, refugee issues, and international protection of human rights.



### Some Reflections on the *Perinçek v. Switzerland* case before the European Court of Human Rights

The 100th anniversary of the Armenian genocide was also the year of the revision by the Grand Chamber of the *Doğu Perinçek v. Switzerland* judgment rendered by the European Court of Human Rights (ECHR) on December 17, 2013. This controversial judgment gave the Grand Chamber the chance to rule on the denial of genocide facing human rights law for the first time, a step awaited by many. The Grand Chamber delivered its final decision on October 15, 2015 and concluded that there was a violation of the applicant's freedom of expression in this specific case. This presentation will focus on the main arguments set forth by the ECHR, which disfavored the Swiss criminal jurisdictions, for a better understanding of the reasoning adopted by the (short) majority of the judges (ten votes to seven). It will then show how, and why, each one of the outstanding assessments of the Court is questionable both from a legal and philosophical point of view, shedding light on the paradoxes and consequences of such assessments.



**Sévane Garibian**  
(University of Geneva)

#### Biography:

Sévane Garibian is a Swiss National Science Foundation (SNSF) Professor of Law at the University of Geneva and Associate Professor of Law at the University of Neuchâtel. Her work focuses on law facing state crimes (domains: International Criminal Justice, Transitional Justice, Human Rights, Philosophy of Law). She is the author of numerous multilingual publications, including on Memory Laws and Genocide Denial. She is currently leading an SNSF funded research program at the University of Geneva: "Right to Truth, Truth(s) through Rights : Mass Crimes Impunity and Transitional Justice".

### The Obligation to Criminalise Historical Denialism in a Multilevel Human Rights System

Generally, international human rights law does not recognise an obligation to criminalise historical denialism. Such an obligation would unduly limit the scope of the right to freedom of expression, which admits limitations only in specific cases including for example speech that constitutes public and direct incitement to violence. Nonetheless, in the Old Continent, the judicial activism of the European Court of Human Rights as well as legislative innovations within the European Union, most notably the adoption of Framework Decision 2008/913/JHA by the Council of the EU, in response to pressing domestic needs seem to have paved the way for an increasing acceptance of the criminalisation of the negation, justification or trivialisation of the Holocaust and other international crimes provided that certain conditions are met. My paper charts under what conditions the criminalisation of historical denialism may be admissible under international law and critically assesses the undesirable implications of such an approach for freedom of speech.



**Piergiuseppe Parisi**  
(University of Trento)

#### Biography:

I am a Research Associate at the Centre for Applied Human Rights (University of York, (United Kingdom)), where I work on a project titled Human Rights Defenders Hub. I am also a PhD candidate at the School of International Studies (University of Trento, Italy). My doctoral research focuses on the impact of international human rights inquiries in the context of the Israeli-Palestinian conflict. I have worked as a Research Assistant for the Italian Unit of the Memory Laws in European and Comparative Perspective – MELA Project, funded by HERA.

## OUR PANELISTS AND ABSTRACTS



**Alexander Tsisis**  
(Loyola University of Chicago)

### Biography:

Alexander Tsisis's most recent books are *Constitutional Ethos: Liberal Equality for the Common Good* (Oxford University Press 2017) and *For Liberty and Equality: The Life and Times of the Declaration of Independence* (Oxford University Press 2012). His previous books include *We Shall Overcome: A History of Civil Rights and the Law* (Yale University Press 2008), *The Thirteenth Amendment and American Freedom* (New York University Press 2004), and *Destructive Messages: How Hate Speech Paved the Way for Harmful Social Movements* (New York University Press 2002). He is currently writing a book on First Amendment theory. He is currently working on a book on The subjects of his articles range from cyber speech, constitutional interpretation, civil rights law, and human rights. They have appeared or will appear in a variety of law reviews across the country, including the Boston University Law Review, Columbia Law Review, Cornell Law Review, Minnesota Law Review, Northwestern University Law Review, Southern California Law Review, University of Illinois Law Review, and Vanderbilt Law Review. Tsisis's scholarship focuses on a breadth of subjects, including constitutional law, civil rights, constitutional reconstruction, interpretive methodology, free speech theory, and legal history.

### The Jurisprudence of the European Court of Human Rights in the Area of Europe's Totalitarian Past – selected examples

When history and memory of the past enter the courtroom, it is difficult to escape the question about the attitude of judges, who are sometimes forced to take the role of historians conducting a kind of "judgment on history". However, this situation is even more difficult in the case of international courts and tribunals, where judges from different countries sit, representing also different or sometimes even antagonistic perspectives of looking at specific historical events. That is why these judges often - and probably rightly so - try to avoid speaking directly on topics related to the history of individual countries. However, this is not always the case in the Strasbourg Court that sometimes enters or even initiates various historical deliberations. In this presentations I would like to briefly present some of the decisions and judgments of the Court where the historical heritage had been decisive in the reasoning and decision taken by the Court, as well as some of the cases where the Court, despite the existence of significant historical conditions, did not assess them as significant enough to influence its final dictum. As I will try to demonstrate, the dividing line here is very often situated between the fascist/Nazi vs. Stalinist/communist pasts. At the same time, as the position of the Court towards the events and circumstances marked by fascism and Nazis are much better known not only between the participants of our today's conference but also generally, I will limit myself to remind and indicate only some of the most symptomatic decisions and judgments in this regard, paying more attention to the position of the Court towards various historical events (and their current repercussions) that took place behind the "Iron Curtain".

### Genocide Denial and Genocide Negation

Poland's controversial February 2018 Institute of National Remembrance Law came with criminal provisions that drew international criticism. The statute is based on nationalistic notions of honor. Unlike memory laws in countries like Germany, Austria, and France the Polish Holocaust Law punishes anyone who may say that the Polish nation or the Republic of Poland responsible for the Holocaust committed in Poland against the Jews. Under an analogous nationalist memory law, criminal charges can be brought in Turkey against anyone asserting that Turks were systematically responsible for the Armenian genocide. Both laws have their analogue in Holocaust and genocide denial laws in Germany, France, Spain, Switzerland, and Austria. These countries enforce laws prohibiting the public spread of group defamations whose harm they regard to outweigh any benefit from open debate. The two types of laws differ insofar as negation law is about national honor, while denial laws prohibit false assertions about crimes against humanity. My essay comparatively studies the distinction between nations with laws against genocide denial and those that regulate memory about national honor. The Polish denial law restricts knowledge. The ambiguity of its terms makes it uncertain who will be punished.



**Aleksandra Gliszczyńska-Grabias**  
(Polish Academy of Sciences)

### Biography:

Dr Aleksandra Gliszczyńska-Grabias is Assistant Professor at the Institute of Law Studies of the Polish Academy of Sciences. Expert in the fields of anti-discrimination law, constitutional law, freedom of speech and memory laws. She is co-editor and co-author of *Law and Memory: Towards Legal Governance of History* (CUP, 2017, together with Ulad Belavusau). A recipient of the 2015-2018 Fellowship of the Polish Ministry of Science and Higher Education for outstanding achievements in science and research, Dr Gliszczyńska-Grabias was also Bohdan Winiarski Fellow at the Lauterpacht Centre of the University of Cambridge and Graduate Fellow of the Yale Initiative for the Interdisciplinary Study of Antisemitism, Yale University. From September 2016 to August 2019 she was a Principal Investigator in the Memory Laws in European and Comparative Perspectives (MELA), international research consortium sponsored by the Humanities in the European Research Area (HERA).

### The Art of Negationism. Balancing Freedom of Artistic Expression and the Right to Truth?

Negationist speech is a manifestation of the active aspect of freedom of expression (right to impart information or opinions). Moreover, negationist speech can be analysed also in the context of freedom of artistic expression as it may be undertaken in the context of an (allegedly) artistic activity. There are several elements or questions that need to be addressed. The first question is whether negationist speech as such is always a statement of fact or whether it may constitute opinion. If negationist speech is the statement of facts – is the society entitled to reproach the speaker? The interpretation of historical events is a complexed and ever-changing effort. On the other hand, the risks resulting from the contamination of knowledge about history are significant. The second element of the analysis is the situation of the audience member: is he entitled to receive reliable (true) information or just any sort of information? Also, is he entitled to receive the negationist information (opinion)? In another words, is the freedom to receive information to be interpreted as meaning the right to truth or just freedom of access to a whole range of different types of information, including those of low (or no) quality? The third element of the paper is addressing the question on whether negationism (qualified alternatively as statement of fact or opinion) can – at all – be treated as artistic expression? The fourth component of the work concerns the influence of characteristic features of artistic expression on legal assessment of negationist. The conclusions of the paper are focused on proposing certain interpretative standards, based on international case-law, which can be employed while balancing freedom of artistic expression and the prohibition of negationism.



**Mattias Fahrner**  
(University of Konstanz)

#### Biography:

Dr. jur. Matthias Fahrner, M.A., Judge and a former Ministerial Councilor of the State of Baden-Württemberg, is currently holding the position of Associated Professor for Criminal Law and Criminal Procedure at the University of Konstanz. He works on the foundations of the German Criminal Law for the Protection of the State and the Community (Staatsschutzstrafrecht), particularly with his study book ("Staatsschutzstrafrecht. Einführung und Grundlagen", R. Boorberg, in press), being the first introduction into this subject in Germany. He enjoys wide professional expertise, e.g. as Deputy Presiding Judge of a Criminal Chamber in Regional Court, Special Scientific Advisor to the Federal Special Commission on Right Wing Terrorism and on the Reform of the German Security Architecture, Envoy of the State of Baden-Württemberg at the Federal Parliament and Federal Government for Defense, Home Affairs and the Interior as well as for the Special Investigation Committee on a Right Wing Terror Group and as Deputy Head of the Unit for Information and Communication Technologies at the Federal Ministry of Justice, Public Prosecutor and Lawyer. Dr. Fahrner is also member of the Federal Board of the German New Federation of Judges, German delegate for European Judges' and Public Prosecutors' Association MEDEL and member, e.g. of the German Association of Secret Services (GKND), the German Association for the United Nations and the Association of the Walter-Hallstein-Institute for European Constitutional Law.



**Marcin Górski**  
(University of Łódź)

#### Biography:

Marcin Górski - Ph.D. in Law, adjunct professor of the Department of European Constitutional Law, Faculty of Law and Administration, University of Łódź, attorney, member of the Human Rights Committee of the National Bar of Attorneys, Head of the Legal Department of the City of Łódź Local Government, author or editor of approx. 160 articles and books on EU law, international law, constitutional law, human rights law et al. (including: Swoboda wypowiedzi artystycznej. Standardy międzynarodowe i krajowe; Eng. Freedom of Artistic Expression. International and Domestic Standards, Wolters Kluwer 2019).

### Back to the Roots – The Obligation(s) to Punish Negationism in Germany

The Criminalization of Negationism in Germany has been being exposed repeatedly to waves of attacks from its beginning – not only from specific political propagandists, but also scholars fighting for a return to the "value-free" democracy of the inter-war period. These questions about the legality and legitimation of the alleged taboo to deny of specific genocides and putting it in line with arbitrary measures in totalitarian states are rightly discarded by the liberal majority of the public as well as the courts as dangerous and strategic ignorance of history. However, they put an interesting starting point for the self-reflection about the meaning and importance of the punishment of Negationism in Germany. Searching for the roots not only of justification, but of an obligation to punish Negationism leads to fundamental questions of the German liberal democratic order in its international integration as well as its historical self-understanding: On the one hand, it is necessary to examine the scope and implementation of obligations to punish Negationism under public international and Union law. On the other, the exciting question arises as to what extent the German constitutional system itself commits legislators and judiciary to the punishment of Negationism. Particularly, it will be necessary to focus on the immediate constitutional obligations to punish acts against the peaceful coexistence of peoples, the debates on a general fundamental right to security for the persons concerned, as well as other specific fundamental rights reasoning. After all, the question of the duties of the German state to protect itself, in regard of its special historical background, as a "militant democracy" within a European Union of common security, values and constitutional interdependence needs clarification and debate.time of their legal acts.



## OUR PANELISTS AND ABSTRACTS

### **The Contribution of the Greek Legal Order to the Shaping of International Standards Pertaining to the Criminalisation of Negationism**

The paper, while identifying a noteworthy trend in international and European human rights law in the direction of requiring states to punish negationism by means of national law, argues that there are as yet no crystallised international rules on negationism that would generate specific standards of conduct on states to ban or criminalise such speech. Our paper argues that, in the absence of sufficiently crystallised norms at the international level, due attention must be paid to state practice - which is a key element nourishing and co-shaping international standards. In light of this, the paper gives a recent example from the Greek legal order and examines it in a critical fashion and as a case study of an approach to criminalising negationism. Firstly, it assesses the Greek legislative framework on negationism and then delves into the landmark judgment of the Greek judiciary in the controversial Richter case. In Greece, Article 2 of Law 927/1979 as amended by 4285/2014 criminalised among others, the denial of genocide, war crimes and crimes against humanity as well as the endorsement or trivialisation of such crimes. This provision was used to prosecute a German Professor of History, Heinz Richter, for the content of one of his books, where in his capacity as a historian he was accused for allegedly trivialising (negating and endorsing) war crimes committed by Nazi occupation powers in Greece during World War Two. While Professor Richter was ultimately found innocent, and the Greek law in question was declared to be unconstitutional, his case serves as a useful case study to determine the interaction between academic freedom (an important facet of freedom of expression), and negationism while also highlighting the potential shortcomings in the design of laws intending to ban negationism without violating freedom of expression.



**Vassilis P Tzevelekos**  
**(University of Liverpool)**

#### **Biography:**

Dr Vassilis P Tzevelekos is a Senior Lecturer in Law (associate professor) at the University of Liverpool School of Law and Social Justice. He holds a PhD on Public International Law from the European University Institute, where he also did a Master on Legal Research. Before the European University Institute he studied European Politics at the College of Europe (MA in European Politics) and Public International Law at Paris 1 Panthéon-Sorbonne (DEA). Vassilis did his main studies in Law (undergraduate) at the University of Athens and is qualified with the Athens' Bar. In the past, he has been a visiting scholar at Columbia Law School and a Grotius Fellow for one academic year at the University of Michigan Law School. He is a general international law lawyer with a special interest in human rights protection. He has published in various areas, including theory of general international law, European human rights law and the interaction between the two -with emphasis on the system of the European Convention on Human Rights.



**Dimitrios Kagiarios**  
**(University of Exeter)**

#### **Biography:**

Dr Dimitrios Kagiarios is a Lecturer in Law at the Exeter Law School and a member of the Edinburgh Centre for Constitutional Law. Before joining Exeter, he taught on constitutional law, administrative law and human rights law courses at the University of Edinburgh and the University of Hull. He was awarded his PhD for his thesis 'Whistleblowing and democratic governance: Public Interest limitations in Security and Intelligence' in 2015 from the University of Hull. Earlier, he obtained an LLM in International Human Rights Law from Brunel University London and an LLB from the University of Athens. His research interests and include whistle-blower protection under Article 10 ECHR, the impact of European sovereign debt crisis on human rights and the 'socio-economic' case law of the European Court of Human Rights more broadly.



### Criminalizing negationism in Greece: legislative choices and judicial application

Is the criminalization of hate speech in general and of negationism in particular legitimate in a liberal and democratic state functioning under the rule of law? In the affirmative case, under what specific terms and conditions? The former question refers to the political and legal justification of such a choice and is linked to the notion of axiological legitimacy, according to which the assessment criterion of the judgments under consideration is their harmonization with fundamental principles of the legal order (international and national), which are usually detected in the respective statutes (e.g. Constitutional or international treaties, Constitution or fundamental law, etc.). The latter question correlates with the degree that specific legislative choices in the stipulation of the criminal types of hate speech and negationism come to terms with fundamental principles of liberal criminal law, like penal formalism, principle of legality, personal guilt, punishment of acts – not of mere ideas and beliefs, substantiating the allegation of respect of legality in the exercise of penal power. The article examines both questions, taking into consideration the preconditions and the limits of criminalization of hate speech and negationism in the European public order, as they are portrayed in the case law of the European Court of Human Rights. In this context, Criminal Law 4285/2014 that transposed Framework Decision 2008/913 into the Greek legal order is analysed, highlighting the legislative choices made in the case of negationism, while relevant case law is concisely discussed.



**Grażyna Baranowska**  
(Polish Academy of Sciences)

#### Biography:

Dr Grażyna Baranowska is an Assistant Professor at the Institute of Law Studies of the Polish Academy of Sciences and researcher in the project 'The impact of universal human rights standards on the jurisprudence of the European Court of Human Rights. A critical analysis,' funded by the Polish National Science Center. Until August 2019 she was a Post-Doctoral Researcher in the three-year MELA project (Memory Laws in European and Comparative Perspectives), funded by HERA. For her research on memory laws in Turkey she received additional support in 2019 from Humboldt University as a Research Fellow in the project Constitutional Politics in Turkey II. Previously she has worked in the project "Fostering Human Rights Among European (Internal and External) Policies" funded by the EU, in the German Parliament and for a number of non-profit organizations. Dr Baranowska has published articles inter alia in the International Review of the Red Cross and European Human Rights Law Review. Her monograph is forthcoming with Intersentia (Transitional Justice series). Dr Baranowska is a recipient of the 2018 Fellowship of the Foundation for Polish Science for outstanding achievements (START).



**Athanasios Chouliaras**  
(Hellenic Open University)

#### Biography:

Athanasios CHOULIARAS works as attorney at law in Athens, Greece, where he also teaches criminology (Hellenic Open University) and criminal law (Police Officers School of Hellenic Police). After completing his graduate studies in law (Democritus University of Thrace, Greece) he studied at post-graduate level criminology (University of Barcelona, Spain), philosophy and sociology of law (both at National and Kapodistrian University of Athens, Greece), at doctorate level criminal law and criminology (Democritus University of Thrace, Greece), while he recently conducted his post-doctoral research in the field of social sciences (Panteion University of Social and Political Sciences, Greece). He attended various specialization courses in international criminal law and participated in numerous international conferences. He has published various articles in Greek, English and Italian on human rights protection, criminology, victimology and (international) criminal law.

### Penalizing statements about the past in Turkey

In Orhan Pamuk, the renown writer and recipient of the 2006 Nobel Prize in Literature, stated in an interview in 2005 he gave a Swiss magazine that thirty thousand Kurds and a million Armenians were killed in Turkey. Because of this statement, criminal charges were brought against him. While the case was eventually dropped, the criminal law provision on the basis of which he was charged – Article 301 – became world-renowned and has been considered as one of the most repressive 'memory laws'. The provision has been infamously used to prosecute persons alluding to past events, but it does not in fact indicate historical revisionism. As such it can be called a de facto memory law. Scholars have repeatedly named Article 301 as the sole or most significant Turkish memory law, and in particular connected it with the denial of Armenian genocide. This paper challenges these assumptions. It argues that in Turkey different criminal provisions are being used to prosecute statements about the past and offers an analysis of court practice. By identifying other criminal provisions, the paper argues that taken together, especially when considering their applications, these norms are a powerful instrument for prohibiting certain statements about the past. It further argues that with regard to Turkey, memory laws must be understood as a set of provisions.

## OUR PANELISTS AND ABSTRACTS



**Charis Papacharalambous**  
(University of Cyprus)

### Biography:

Associate Professor in Criminal Law & Jurisprudence (Law Dept.; University of Cyprus); Dr. iur. in Criminal Law and Law Theory (Goethe University, Frankfurt a. M., Germany). Theme of dissertation: "Das politische Delikt im legalistischen Rechtsstaat", Peter Lang, Frankfurt am Main, 1991; Lawyer at the Greek Supreme Court; formerly: Legal Advisor to the Greek Minister of Justice, Senior Investigator at the Greek Ombudsman; author of 3 monographs on Criminal Law in Greek (: "Participation at suicide" [1997]; "Naturalism and normative approach. Causality and objective imputation as cornerstones of the general theory of wrongdoing" [2003]; "The Penal Protection of the External Security of the State. Systematic Commentary on Art. 138-152 of the Greek Criminal Code" [2016])

### Debates over history and the European Convention on Human Rights

Debates over history and the European Convention on Human Rights The European Court on Human Rights (and the European Commission on Human Rights that existed until 1 November 1998) has adjudicated on a number of cases concerning interference in speech on historical issues. The resulting case law can be divided in two basic groups: (a) denial (negationist) speech cases, and (b) speech regarding the events of World War Two, but presenting the facts or the assessment of facts in fashion which deviates from that presented by historians or the dominant part of society. The applicants relied on Article 10 of the European Convention on Human Rights which protects freedom of expression but the Court itself also made use of Article 17 containing the so-called "buffer clause". Additionally, any reconstruction of the Strasbourg standards must take note of the recent judgment of *Perinçek v. Turkey*.

The Convention standards regarding discussions on history may at first sight be a kind of troublesome patchwork. Actually, however, there are some points well organising the relevant case law and making it, to a large extent, predictable. First, historical debates concern matters of public interest, what means they are afforded a heightened degree of protection and the resulting margin of appreciation states enjoy is very narrow or even non-existent. Second, all courts, both domestic and the Strasbourg Court itself, do not ought to become arbiters settling historical controversies. All perspectives, even minoritarian and extravagant, should enter the public area where their veracity is tested. Third, some exceptions to the rule of unfettered discussion are permitted but they must be constructed and construed in a restrictive manner. Denial of historical facts constituting crimes under international law may be subject to legal restrictions, even of penal character, especially in those places and states where such crimes occurred. Interferences are also permitted when statements hurt feelings of individuals, in particular those being close relatives of actors of historical events. Fourth, time span separating events and expressions relating to them is a factor that needs consideration. Some restrictions may originally be justified but over time their application, and all the more, institution of new restrictions, becomes problematic. Fifth, Article 17 of the Convention, which strips some expressions the protection of Article 10, seems to be reserved for this speech only that is deemed as going contrary to "the underlying values of the Convention".

### Incrimination of Negationism: Doctrinal and Law-Philosophical Implications

The paper presents the doctrinal and law-philosophical implications of criminalization of negationism. At the criminal law level the topics to be dealt with are: the extension of penal sanctions to the pre-stages of an actual harm, as is the case with hate crimes *stricto sensu*; the problem of penalizing the expression of 'ideas' or sentiments and the need to change the criminal law pattern based on harm in favor of another criminal law paradigm based on the efficacious protection of fundamental rights; the nature of the deed regarding its dangerousness, i.e. the revival of the whole query about the legitimacy of abstract endangerment; the similarity and the difference of 'negationist' conduct to the conduct of a traditional instigator; finally, thoughts about symbolic criminal law and the nature of the legal good to be protected through the incrimination of negationism. At the law-philosophical level, the paper deals with the revival of intention as 'dolus malus' and the re-moralization of criminal law provisions; the re-connection of legal harm and moral wrong; the question about the appropriateness of criminal law as a vehicle of preemptively combating 'moral monsters' as enemies to be 'ex-communicated' instead of recurring to it as a tool serving traditional aims of punishment; finally, the more general question is revisited whether in universal core crimes the notion of an 'aim' of the sanction still makes sense or the retaliation in place cannot be confined in law. Therefore, the thoughts of Hannah Arendt, Emmanuel Levinas and Vladimir Jankélévitch are briefly considered.



**Ireneusz C. Kamiński**  
(Polish Academy of Sciences)

### Biography:

Ireneusz C. Kamiński – law and sociology graduate who studied at the universities in Katowice and Cracow as well as in Brussels (European Academy for the Theory of Law). Professor at the Institute of Legal Studies, Polish Academy of Sciences in Warsaw (chair of International Public Law); he also lectures at Jagiellonian University in Cracow. Received several awards for his research achievements. Author of eight book and more than 200 academic publications. Specializes in human rights, especially in the European Convention of Human Rights. Expert of the Council of Europe; legal expert or consultant to a number of Polish and international non-governmental organisations, e.g. Helsinki Foundation of Human Rights, European Foundation of Human Rights, Article XIX, Amnesty International. Editor-in-chief of „Kwartalnik o Prawach Człowieka” (Quarterly on Human Rights). Member of editorial boards of several law journals and peer reviewer of many others. Member (2012-2016) of the Council of the National Research Center, a governmental agency financing scientific research in Poland. Between July 2014 and July 2016 he was an ad hoc judge at the European Court of Human Rights in Strasbourg. Legal representative in the proceedings before the European Court of Human Rights in Strasbourg, among others in the "Katyn massacre case".

### **Negationism and Polish criminal law – dogmatic considerations**

The issue of negationism in Polish criminal law is closely related to the current Art. 55 of the Act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws of 2018, item 2032, as amended), according to which: "Who denies publicly and contrary to facts crimes referred to in art. 1 point 1, shall be subject to a fine or imprisonment of up to 3 years. The judgment shall be made public". The paper showed that in Art. 55 of the Act on the Institute of National Remembrance, we are dealing with a difficult to interpret, and at the same time relatively narrowly outlined sanctioned norm and that the current content of the analyzed regulation may constitute a basis for abuse on the part of both perpetrators and law enforcement authorities. The paper also analyzes the extremely controversial amendment to the Act on the Institute of National Remembrance from 2018, and more specifically - an analysis of key doubts that arose in the context of (currently repealed) Art. 55a and art. 55b of the Act on the Institute of National Remembrance.



**Łukasz Pohl**  
**(University of Szczecin /**  
**Justice Institute)**

#### **Biography:**

Łukasz Pohl is Professor and Head of the Department of Criminal Law at the University of Szczecin and leads the Section of Criminal Law and Process at the Institute of Justice.

Author or co-author of four monographs and dozens of other scientific publications (including, among others, a textbook on criminal law, two extensive fragments in the Criminal Law System, several explanations in the Commentary to the Penal Code edited by R. A. Stefański). The focus of his academic interest is the fundamental issues of the general part of criminal law.



**Konrad Burdziak**  
**(University of Szczecin)**

#### **Biography:**

Konrad Burdziak is Assistant Professor at the Department of Criminal Law at the University of Szczecin and works in the Section of Criminal Law and Process at the Institute of Justice.

Author or co-author of four monographs and over 40 other scientific publications in the field of criminal law. Speaker at national and international conferences. The general areas of his research interests include criminal law, criminal procedure and suicidology.

## OUR PANELISTS AND ABSTRACTS



**Nedžad Smilagić**  
(University of Zagreb, Sarajevo School  
of Science and Technology)

### Biography:

Nedžad Smilagić teaches international law at the Department of Political Science and International Relations of the Sarajevo School of Science and Technology. He holds LLB and LLM degrees from the University of Sarajevo and a Diploma in Comparative Law from the International Faculty of Comparative Law in Strasbourg, and currently is a doctoral student at the University of Zagreb. His previous affiliations include lectureship at the University of Sarajevo, as well as research stays at the Institute of Criminal Sciences of the University of Poitiers and Max Planck Institute for Foreign and International Criminal Law in Freiburg. He has published extensively on international and comparative criminal law.



**Veronika Bílková**  
(Charles University)

### Biography:

Assoc. Prof. Veronika Bílková is the head of the Centre for International Law at the Institute of International Relations in Prague and a lecturer in international law at the Faculty of Law of the Charles University in Prague. She represents the Czech Republic in the European Commission for Democracy Through Law (Venice Commission). She is the Secretary-General of the European Society of International Law. She has authored several books and dozens of articles on international law (the use of force, international humanitarian law, human rights) and international relations (security topics and the UN).

### Denial of Atrocity Crimes Committed in the Former Yugoslavia: Criminal Law and Transitional Justice Considerations

This article explores what effect the denial of atrocity crimes has in communities of countries of the former Yugoslavia in which those crimes were committed and how criminal law in force and transitional justice mechanisms address this problem. Denial of atrocity crimes committed in the 1991-1999 period, despite being established as such by competent international and national courts, is a common occurrence in some countries of the former Yugoslavia more than 20 years after the end of hostilities. This problem is specifically significant as these crimes are not only denied, but their perpetrators glorified as well, and negatively affects peace processes. The article is structured into two parts. The first part builds upon on the analysis of applicable international law in relation to the fight against impunity and concludes that any effective remedy for such concerning tendency should take include a catalogue of measures including the criminalisation of negationism and punishment of perpetrators as the ultima ratio measure. In order to acquire the full picture in national laws of concerned countries, the second part provides for comparative analysis of existing criminal legislation, practices and attempts to criminalise the negation of genocide and other atrocity crimes in Bosnia and Herzegovina, Croatia, Kosovo, North Macedonia, Montenegro, Serbia and Slovenia. The paper concludes that any effective response to the problem of negationism requires multitude of measures including, but not limited to, the strengthening of the institutional and legislative framework. This particularly applies to law enforcement and judicial institutions. Finally, from the transitional justice perspective, the author believes that proper assessment of potential of each model of transitional justice is required, as the response by criminal law means, i.e. by exercising the ius puniendi by the state, must be considered as the ultima ratio, not the only approach.

### Punishment of Negationism - Czech Experience

The presentation analyses the Czech experience linked to the application of §405 of the Criminal Code criminalizing the Denial of Genocide. It explain why this provision was introduced into the Czech Criminal Code and gives an overview of the case-law related to its implementation.



## Punishment of Negationism in Hungarian Criminal Law – Theory and Practice

This paper aims to give an overview of the Hungarian regulation concerning the "denial of the genocide and other crimes against humanity committed by national socialist and communist regimes". Legislation criminalizing the denial of the Holocaust was first adopted in early 2010 as one of the last Acts passed by the socialist government and was subsequently amended by new right-wing Fidesz government to also include the prohibition of the denial of crimes committed by communist regimes. Even though purportedly this amendment sought to protect the dignity of the victims of the communist regime, it also implicitly signalled the equivalency of the crimes committed by all authoritarian regimes thus initiating a debate. In the paper I will analyse the legislative history of the 2010 Act and its subsequent amendment and the Hungarian Constitutional Court's reaction. Furthermore, I try to assess to what extent this Act can be seen as a "memory law" attempting to orientate or maybe even stifle debate concerning communist history in Hungary.



**Tamás Hoffmann**  
(Hungarian Academy of Sciences)

### Biography:

Dr. Tamás Hoffmann has received a law degree from ELTE Budapest Law School, a LLM in Public International Law at King's College, London, a PhD in Public International Law at ELTE Budapest Law School and a Diploma in International Humanitarian Law from the International Committee of the Red Cross. He undertook an internship at the Appeals Section of the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia in 2004 and taught several courses on international law at different Hungarian universities. Currently he is a Senior Research Fellow at the Institute for Legal Studies of the Hungarian Academy of Sciences and an Associate Professor at Corvinus University of Budapest. He has published extensively both in Hungarian and English on various fields of public international law, particularly concerning international humanitarian law and international criminal law. The current focus of his research is the effect of international criminal law on domestic criminal law norms.



**Bogusław Lackoroński**  
(University of Warsaw)

### Biography:

Bogusław Lackoroński (Ph. D. in law) is an Assistant Professor in the Department of Regional and Global Studies of the Faculty of Political Sciences and International Studies of the University of Warsaw. Since 2011 he has been a legal counsel admitted in Poland. He is an author or co-author over 70 publications on civil law. Many of them concern tortious and contractual liability. He focuses on an admissibility to claim for compensation of indirect (secondary) damages. Lately he has published a paper supporting the thesis that family relationships under some conditions may be subject to personal rights protected on the basis of civil law. The last monography he authored and published in 2019 is about the effectiveness of legal acts in time. In this book he considers the understanding of time and its units in legal sciences and a scope of autonomy of private law entities by shaping effects in time of their legal acts.

## Civil Law Protection of the Reputation of the Republic of Poland and the Polish Nation in the Light of Art. 53o-53q of the Act on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation – selected issues

As a result of the amendments of the Act on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation established in January 2018 (in force since March 1, 2018) besides the provisions related criminal responsibility were introduced the provisions related to civil liability (art. 53o-53q) in order to protect the reputation of the Republic of Poland and the Polish Nation. In the Art. 53o there is provided that the provisions of the Civil Code Act of 23 April 1964 (Polish Journal of Laws of 2018, items 1025, 1104 and 1629) on the protection of personal rights shall be applied appropriately to the protection of the reputation of the Republic of Poland and the Polish Nation. A court action aimed at protecting the Republic of Poland's or the Polish Nation's reputation may be brought by a non-governmental organization within the scope of its activities determined in its founding act. Any compensation or damages shall be awarded to the State Treasury. According to the Art. 53p a lawsuit aimed at protecting the reputation of the Republic of Poland or the Polish Nation may also be brought by the Institute of National Remembrance. In such cases, the Institute of National Remembrance shall have the capacity to be a party to court proceedings. Pursuant to the Art. 53q the provisions of Art. 53o and Art. 53p shall apply regardless of the governing law. My presentation concerns selected issues, which appear in the course of interpretation of these three articles. The Art. 53o-53q raise serious doubts about the adequacy of the private law regime of a protection of personal rights to the reputation of a state and a nation, the tension between the protection of a reputation in general and in particular the reputation of a state and a nation and the freedom of speech, the freedom of scientific research and the freedom of artistic activity. A separate group of issues appearing in the course of interpretation of the Art. 53o-53q is of procedural character (the question who is legitimated to start the proceedings based on the Art. 53o-53q and the question of jurisdiction in the cases with the international element). Some of the doubts may be resolved in the process of interpretation and application the Art. 53o-53q by the courts, but it will take some time to work out the predominant way of interpretation of this provisions of law.

## OUR PANELISTS AND ABSTRACTS



**Aleksandra Mężykowska**  
(Ministry of Foreign Affairs/  
Polish Academy of Sciences)

### Biography:

Aleksandra Mężykowska PhD, an Assistant Professor at the Institute of Law Studies of the Polish Academy of Sciences and an expert in the Treaty and Legal Department of the Ministry of Foreign Affairs. Between 2004 – 2018 served as Deputy Plenipotentiary of the Minister of Foreign Affairs for proceedings before the European Court of Human Rights. She is an editor of a blog devoted to international law "Review of International Law" ([przegladpm.blogspot.com](http://przegladpm.blogspot.com)). Her research interests are focused on human rights law with particular emphasis on the European Convention on Human Rights and international responsibility. Her recent monograph deals with protection of property rights during the process of restitution conducted in the CEE countries after 1990: Reprivatisation procedures in the countries of Central and Eastern Europe and protection of property in the system of the European Convention for Human Rights. Due to her professional experience she published also extensively on the reforms of the control system created on the basis of the European Convention on Human Rights.

### Civil responsibility in the context of Holocaust denial and memory laws in Germany and Poland

While German legislation preventing Holocaust denial was in part triggered by civil lawsuits the jurisprudence that ensued, Poland has only recently (and rather unsuccessfully) tried to introduce relatively broad concepts of civil responsibility into its memory laws, while courts had already widened the scope of civil litigation for individual plaintiffs. The presentation compares the existing German legislation to the Polish IPN law (which was almost entirely reversed by parliament and the Constitutional Court) and to the Polish legislation which remains in force. It finds the Polish scope of civil responsibility still very broad and some of its aspects problematic for freedom of speech and academic freedom and sees the main difference between German and Polish memory laws in legislators' approach to criminal intent.

### History distortion cases - protection of personal rights of victims of mass violations of human rights in the jurisprudence of the ECtHR

Public opinion and legal scholars devote little attention to discussions about protection of the rights of persons who may personally be affected by negationist statements. However, the victims of the denied crimes often treat the opinions expressed as prejudicial to their own personal rights, such as dignity or good name. The presentation discusses the issue of protection of their rights from the perspective of the jurisprudence of the European Court of Human Rights. It considers whether the need to ensure the rights of victims of denied crimes is at all taken into account by the Court and what are the values that in the Court's opinion require protection in the discussed cases. The research proves that the protection offered under the European Convention on Human Rights for the victims of denied crimes is unsatisfactory. This is mainly the consequence of inadequate legal solutions adopted by national authorities that predict the scope of the subsequent control on the European level. However, the Court is not without guilt. The suggestion for future legal debates and planned solutions is to devote more reflection on the identification of values and rights that desire protection from the perspective of memory laws and concentrate efforts on protection of rights of individuals and not on general principles and interests of nations, communities or even states themselves.



**Klaus Bachmann**  
(SWPS University of Social Sciences  
and Humanities)

### Biography:

Klaus Bachmann, professor of social sciences at SWPS University of Social Sciences and Humanities in Warsaw, Poland. He formerly worked at the universities of Vienna, Bordeaux, Johns Hopkins in the US, Renmin University and the University of Stellenbosch and focusses on international criminal justice and transitional justice. He recently published (with Aleksandar Fatic: *The UN International Criminal Tribunals. Transition without Justice?* New York, London: Routledge 2015).



**Andrii Nekoliak**  
**(University of Tartu)**

### Biography:

Andrii Nekoliak is a doctoral candidate in political science at the Johan Skytte Institute of Political Studies in Estonia. Andrii is working on PhD dissertation focusing on the phenomenon of 'memory laws' in Poland, Ukraine, and Estonia. He holds MA degree in law from Yaroslav Mudryi National Law University in Ukraine (2014) and MA degree in Democracy and Governance from the University of Tartu in Estonia (2017).

### Regulating Historical Memory through Civil Responsibility for Negationism: the Case of (Un)empowered norms in Ukraine?

The paper provides an overview of Ukrainian legislation dealing with the punishment of historical speech in the country. It briefly discusses the notion of a 'memory law' before proceeding with the analysis of legal framework on negationism more closely. I argue that Ukraine's legal norms on historical memory can be profiled in two groups: criminal and administrative law norms and civil responsibility norms. The Holodomor law (2006) and the Freedom Fighters law (2015) exemplify the latter category of legal norms dealing with issues of historical memory in the country. However, if the former group of norms is enforceable through criminal procedural law and criminal justice system measures, the latter category has not engendered an actual legal practice. I argue that this is not a mere coincidence, but that the country's civil law does not allow for supplementing civil responsibility norms with actual legal action brought up against potential deniers. Therefore, the legal norms protecting the memory of Holodomor or WW2 Ukrainian nationalists remain rather a symbolic measure to consolidate national commemorative culture.



FUNDUSZ  
SPRAWIEDLIWOŚCI



MINISTERSTWO  
SPRAWIEDLIWOŚCI  
[www.ms.gov.pl](http://www.ms.gov.pl)



UNIVERSITY  
OF WARSAW



Faculty of Political Science  
and International Studies  
University of Warsaw

## OUR CHAIRS

### Biography:

Magdalena Słok-Wódkowska, PhD, assistant professor in the Institute of International Law, Faculty of Law and Administration of University of Warsaw; she also works as an adviser to the European Union Affairs Committee of the Polish Senate. She is an editor of a blog devoted to questions of international law ([przegladpm.blogspot.com](http://przegladpm.blogspot.com)) and cooperates with DELab UW ([delab.uw.edu.pl](http://delab.uw.edu.pl)). Recently, she published a book *Standardy traktowania w prawie międzynarodowym gospodarczym* (EuroPrawo, 2019) and was an author of a Report for Poland in “the external dimension of the EU policies: horizontal issues; trade and investment; immigration and asylum,” part of the report for XXVIII FIDE Congress in Lisbon/Estoril in 2018.



**Magdalena Słok-Wódkowska**  
(University of Warsaw)

### Biography:

Professor Bartłomiej Krzan – University professor at the Department of International and European Law, Faculty of Law, Administration and Economics, University of Wrocław, and lecturer at the German-Polish Law School at the Humboldt University Berlin; MA in Law (2004), MA in International Relations (2005), Ph.D. in International Law (2008), Habilitation in Law (2014); various research stays abroad including at the Lauterpacht Centre for International Law, University of Cambridge (2010) and Walther Schücking Institut für Internationales Recht, Kiel (2011-2012); visiting professor at the University of Regensburg (2013); fields of interest: international responsibility, the law of international organizations (esp. UN), international criminal law, external relations of the EU.



**Bartłomiej Krzan**  
(University of Wrocław)

### Biography:

dr hab. Szymon Pawelec, prof. UW. Associate professor (University of Warsaw), head of the Department of International Criminal Procedure in the Institute of Criminal Law of the Faculty of Law and Administration of the University of Warsaw, attorney, member of the Warsaw Bar Chamber. Prof. Pawelec is the author of publications in the area of criminal law, criminal procedure and commercial law, including book on the protection of interests of joint-stock companies and limited liability companies in business criminal proceedings, a monograph on the interdependence between protection of enterprise secrets in criminal law and the need to identify and protect such secrets in criminal procedure and a series of publications on the new regime of corporate criminal liability in Poland. As an attorney prof. Pawelec has rich professional experience in strategic and crisis consulting in cases concerning civil, criminal and penal fiscal proceedings involving business units and the members of their management. He specializes in cases at the border area of commercial law, criminal law and criminal procedure, particularly in the areas of economic crimes, criminal compliance, corporate criminal liability, pre-trial detention, criminal compliance, stock market and fiscal offence and extradition proceedings.



**Szymon Pawelec**  
(University of Warsaw)



## Biography:

Karolina Wierczyńska (dr. habil.), an Associate Professor at the Institute of Law Studies of the Polish Academy of Sciences, is the Managing Editor of the Polish Yearbook of International Law and the Editor of a blog devoted to questions of international law ([przeglادpm.blogspot.com](http://przeglادpm.blogspot.com)). Recently she co-authored (with Andrzej Jakubowski) an article Individual Responsibility for Deliberate Destruction of Cultural Heritage: Contextualizing the ICC Judgment in the Al-Mahdi Case, Chinese Journal of International Law, issue 4, December 2017, pp. 695-721; also co-edited books Fragmentation vs. the Constitutionalisation of International Law, A practical inquiry, Routledge 2016 (together with Andrzej Jakubowski) and The Case of Crimea's annexation under international law, scholar 2017 (together with Władysław Czapliński, Rafał Tarnogórski, Sławomir Dębski). Her latest monograph is focused on the admissibility of a case before the ICC: Przestępstwa dopuszczalności wykonywania jurysdykcji przez Międzynarodowy Trybunał Karny. Studium Międzynarodowoprawne, Scholar 2016. Her professional interests are focused on international criminal law, human rights, and international responsibility.



**Karolina Wierczyńska**  
(Polish Academy of Sciences)

## CHAIR AND ORGANIZER

### Biography:

Patrycja Grzebyk, Dr. Hab. Iur., Assistant Professor at the University of Warsaw (Faculty of Political Science and International Studies). Her field of research is International Humanitarian Law, International Criminal law, Human Rights Law and Use of Force Law. Author of numerous publications, including the monographs: Cele osobowe i rzeczowe w konfliktach zbrojnych w świetle prawa międzynarodowego, Scholar 2018; Pomoc humanitarna w świetle prawa i praktyki, Scholar 2016 (co-editor with Elżbieta Mikos-Skuza); Criminal responsibility for the crime of aggression, Routledge 2013; Odpowiedzialność karna za zbrodnię agresji, WUW 2010 and numerous articles including Amendments of January 2018 to the Act on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation in Light of International Law (2017) 37 Polish Yearbook of International Law 287. Holder of scholarships of the Foundation for Polish Science, of the Ministry of Science and Higher Education, of the Ministry of Foreign Affairs and University of Cambridge. Awarded with Manfred Lachs award for the best book debut in International law published in 2010. She is a deputy director of the Network on Humanitarian Action at the University of Warsaw. She lectured and/or had research visit in Taiwan (National Taiwan University), United Kingdom University of Cambridge), China (Peking University; Renmin University), Switzerland (University of Geneva), Spain (University of Barcelona, Charles III University of Madrid), Croatia (University of Zagreb), Ukraine (University of Kiev), Germany (Ludwig-Maximilians-Universität München), Italy (University of Bologna).



**Patrycja Grzebyk**  
(University of Warsaw)



FUNDUSZ  
SPRAWIEDLIWOŚCI



MINISTERSTWO  
SPRAWIEDLIWOŚCI

[www.ms.gov.pl](http://www.ms.gov.pl)



UNIVERSITY  
OF WARSAW



Faculty of Political Science  
and International Studies  
University of Warsaw

Co-financed from the means of the Justice Fund administered by the Minister of Justice