When Law Fails, War Follows

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07.03.2025 doi: 10.59704/fbf24e07e4dfd294

Many years ago, I gave a lecture on collective security and international law at the Karazin University in Kharkiv. Among the many questions from the students, I clearly recall their concerns about what happens when international law fails, and raw power prevails, particularly if a permanent member of the UN Security Council commits an act of aggression. We discussed the UN Charter, a state's right to self-defence, the Budapest Memorandum, and what would happen if Ukraine were to become a victim of aggression – a scenario that seemed unimaginable at the time (who, and why would attack Ukraine, right?!). This exchange took place before the annexation of Crimea, in the same building that in March 2022 was struck by a Russian shell at the onset of the full-scale invasion.

Today, the answer to these questions is unfolding before our eyes: When the cornerstone principles of international law are broken, war follows. Yet, the victim of aggression has a choice: to fight back using its right to self-defence or to surrender. The rest of the world, too, has a choice: to stand with the victim and uphold international law and order, or to betray them by tolerating the aggressor, or worse, openly siding with him. Zelenskyy's words, "*I need ammunition, not a ride*", reflect the choice Ukraine made in February 2022. Ukraine chose to stand against Russia – an aggressor state, a nuclear power with an enormous landmass and vast human and natural resources. This choice is clear and has remained steadfast since the first day of the full-scale invasion. Unlike that of some of Ukraine's allies.

A moral and diplomatic betrayal

On February 28, a pivotal meeting took place in the Oval Office – one that should have reaffirmed the United States' once "unwavering support for Ukraine's sovereignty and territorial integrity". Instead, it turned into a harsh, humiliating experience and a clear act of betrayal not only of the people of Ukraine but also of the principles of the UN Charter and US allies in Europe. It was not merely Zelenskyy who entered the Oval Office that day; it was Ukraine – the soldiers fighting on the front lines, the families awaiting their return, the children growing up under the wail of air raid sirens. A weary warrior arrived at the doorstep of a supposed ally, one who had promised support and peace, only to be met with doubt and disdain.

What was this meeting about? The President of Ukraine was pressured to accept Trump's, or perhaps Putin's, peace deal, a distinction that has become increasingly blurred as the White House now echoes Russia's propaganda, point by point.

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The following moments from the tense exchange between Trump, Zelenskyy and Vance give a glimpse into the moral and diplomatic betrayal that Ukraine faced:

Zelenskyy: "*Have you ever been to Ukraine that you say what problems we have?*"'

Vance: "*I've actually watched and seen the stories, and I know that what happens is you bring people, you bring them on a propaganda tour, Mr. President.*"

A propaganda tour. That's how they viewed Ukraine's suffering. Three years under Russia's attacks – bombed-out cities, mass graves, Mariupol, Bucha, families torn apart. Not reality, but a show. A performance.

Trump: "*You're, right now, not in a very good position. You've allowed yourself to be in a very bad position.*"

As if Ukrainians were responsible for this war. As if the invasion, the war crimes, and the relentless missile strikes were a failure of Ukraine's leadership rather than the brutality of an enemy, a nuclear state ten times its size. Vance: "*Have you said thank you once?*"

Zelenskyy: "*A lot of times. Even today.*"

But that was not enough.

Vance: "*Offer some words of appreciation for the United States of America and the President who's trying to save your country.*"

Is Trump really saving Ukraine? This is the same person who supported blocking military aid to Ukraine in early 2024, hindering Ukraine's ability to defend its positions and allowing Russian forces to make tactical gains. It is the same person who, on 25 February 2025, opposed a European-drafted UN resolution condemning Moscow's aggression. A person who blames Ukraine, insisting that Ukraine should have never started this war. And yet, this is the person to whom Ukraine was expected to express gratitude.

Trump: "*Look, if you can get a ceasefire right now, I tell you, you take it so the bullets stop flying and your men stop getting killed.*"

Zelenskyy: "*Of course we want to stop the war. But I said to you, with guarantees.*"

Trump: "*Are you saying you don't want a ceasefire? I want a ceasefire. Because you'll get a ceasefire faster than an agreement.*"

No one longs for peace more than Ukraine. No one is more exhausted by war. But true peace can only come with real guarantees that prevent further aggression and ensure that Ukraine's existence is secure. This is a simple yet profound request: Security and assurances that the bloodshed and destruction will not continue, and that Russia will not return.

Ukraine has a long list of international agreements in which Russia explicitly recognized Ukraine's sovereignty and territorial integrity (e.g., the Treaty on Friendship, Cooperation, and Partnership between Ukraine and Russia (1997), the Treaty between Ukraine and the Russian Federation on the State Border (2003)). More critically, when Ukraine relinquished what was then the world's third-largest nuclear arsenal, Russia, along with other signatories, pledged to uphold its security under the 1994 Budapest Memorandum. All these commitments were violated in 2014 when Russia annexed Crimea and launched a hybrid war in Ukraine's Donbas. The Minsk process that followed failed to bring lasting peace; instead, it revealed Russia's tactic of using ceasefires as temporary pauses rather than genuine steps toward peace. In fact, over 25 ceasefires agreed upon since 2014 were broken, ultimately leading to Russia's full-scale invasion in 2022. After so many breaches of trust, any promise of peace from Russia remains meaningless without concrete and enforceable guarantees.

Someone from the audience repeated Zelenskyy's request about the guarantees for Ukraine: "*What if Russia breaks the ceasefire?*"

Trump: "*What, if anything? What if a bomb drops on your head right now?*"

Yes, Mr. President, at that exact moment, Ukrainians were under Russian attack: Missiles and bombs raining down on their heads. Russia was demonstrating its "readiness for the peace deal".

Trump: "*... And your people are very brave. But you're either going to make a deal or we're out. And if we're out, you'll fight it out... But once we sign that deal, you're in a much better position, but you're not acting at all thankful. And that's not a nice thing... *"

In the days following this meeting, the US suspended military aid to Ukraine, retroactively halting all previously approved assistance that had yet to arrive. The most critical consequences are the delays in delivering Patriot air defence systems and interceptor missiles – vital for protecting Ukraine from Russia's relentless airstrikes. Furthermore, the US cut off intel-

ligence sharing, depriving Ukraine of real-time warnings about incoming attacks. Trump's decisions do not just weaken Ukraine's ability to fight; they directly endanger the lives of civilians while giving Russia a strategic advantage in the skies. Hospitals, schools, and residential areas – already frequent targets – will face even greater danger.

Over the past three years of war, US support has been a cornerstone of Ukraine's resistance, signaling strong opposition to Russian aggression. Now, with these lifelines cut, Kyiv is left more vulnerable than ever while Moscow watches and benefits. Is this a peace negotiation? It seems more like the US has opened a new front – against Ukraine. In the end, what is the difference between the US weakening Ukraine and Iran supplying missiles and drones to Russia or North Korea sending soldiers to bolster Putin's army?

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This is a striking shift in US policy: helping Russia gain from Ukraine what it could not win on the battlefield.

The Future of the International Order Lies in Ukraine

A Trump-brokered peace deal would mean Ukraine being overtaken by Russia. But why is this dangerous for the entire world?

First, it sends a clear message that national sovereignty, territorial integrity, and international law no longer matter. By forcing Ukraine into a peace deal that legitimizes Russia's aggression, it sets a dangerous precedent, encouraging other states to use force.

Second, Ukraine is a country that gave up its nuclear weapons in exchange for international guarantees of its sovereignty and territorial integrity. Ukraine's experience – where two nuclear powers impose their will – could prompt other nations to reconsider disarmament and instead pursue their own nuclear programs for self-protection.

Third, by aligning with Russia, the US risks weakening the so-called "collective West", dismantling the most powerful alliance in human history. By undermining Ukraine, the West signals that it no longer upholds its own values – rule of law, justice, democracy, human rights.

The livestream from the Oval Office and the decisions that followed highlight a troubling reality: The world is becoming an increasingly dangerous place for everyone.

Trump: "*All right, I think we've seen enough. What do you think? This is going to be great television. I will say that.*"

Editor's Pick

by JAKOB GAŠPERIN WISCHHOFF



"Nothing is true, all is permitted."

The novel Alamut, which inspired the famous computer game Assassin's Creed, is a story that will not allow you to sleep. It is as much about fundamentalism in the 11th century as it is about today. It is about Hassan-i Sabbah and the Persian impregnable fortress Alamut, which I visited on my journey through Iran.

By Slovenian writer Vladimir Bartol from the suburbs of Trieste (1903-1967).

"No one thinks of the flowers.
No one thinks of the fish.
No one wants to believe the garden is dying,
that its heart has swollen in the heat
of this sun, that its mind drains slowly
of its lush memories. (*I Pity the Garden, Forugh Farrokhzad*)"

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The Week on Verfassungsblog

summarised by MAXIM BÖNNEMANN

"A moral and diplomatic betrayal." This is how Ukrainian legal scholar Alina Cherviatsova described the United States' policy shift in our editorial. The geopolitical consequences of the U.S. rapprochement with dictator Vladimir Putin are huge. Ukraine loses vital intelligence and weaponry while Russia relentlessly continues its war of aggression. Beyond Ukraine, the shock of abandoning decades-old certainties is profound. Without U.S. protection, **Europe's vulnerability to Russia** is exposed, particularly in the Baltics. However, while the European Union is experiencing its greatest security crisis, it also becomes evident that crisis management has become one of the EU's well-established strengths: Just days after the White House debacle, the European Commission unveiled a plan ("ReArm Europe") to mobilize hundreds of billions of euros for Europe's security. PAUL DERMINE (ENG) offers a first set of reflections on the plan's structure, ambition, and legal design. Meanwhile, KARSTEN MEIJER and ARJEN KLEIN (ENG) outline three challenges for the creation of a European army.

Not only is European defence policy receiving more attention, but another dimension of Russia's war against Ukraine is also being discussed more intensely: the discussion about **Ukraine's membership in the European Union**. ANDREW DUFF (ENG) argues that Ukraine must join the European Union as quickly as possible. While Ukraine initially prioritized NATO membership, its sovereignty now depends on EU integration, which would provide economic recovery, legal protection, and political solidarity. To accelerate the process, DUFF suggests removing unnecessary unanimity requirements, granting Ukraine partial voting rights before full membership (as soon as the accession treaty is signed), and drafting the accession treaty by 2025.

On 12 February 2025, the European Court of Human Rights (ECtHR) in Strasbourg held a landmark session, addressing for the first time the issue of **'migrant instrumentalisation' or 'hybrid attacks'** allegedly orchestrated by Belarus following EU sanctions. The Grand Chamber heard three cases against Latvia, Lithuania, and Poland, the states reportedly affected. ALEKSANDRA ANCITE-JEPIFÁNOVA (ENG) examines key government arguments regarding the interpretation of Article 3 ECHR (prohibition of inhuman treatment) and Article 4 Protocol 4 ECHR (prohibition of collective expulsion), analysing their interplay within the complex border situation.

Turning from Strasbourg to Budapest and potentially back to Luxembourg, the issue of judicial independence and fair pay led thousands to demonstrate in

Budapest. Three days after the protests, the CJEU ruled in Joined Cases C-146/23 and C-374/23, setting EU-wide minimum criteria for **judges' remuneration to ensure independence**. Though the cases originated in Lithuania and Poland, the ruling is highly relevant to Hungary, where judicial salaries lack legal clarity and enforceability. DÁNIEL G. SZABÓ (ENG) explains why the decision should prompt an EU infringement procedure and empowers Hungarian judges to challenge their arbitrary pay system.

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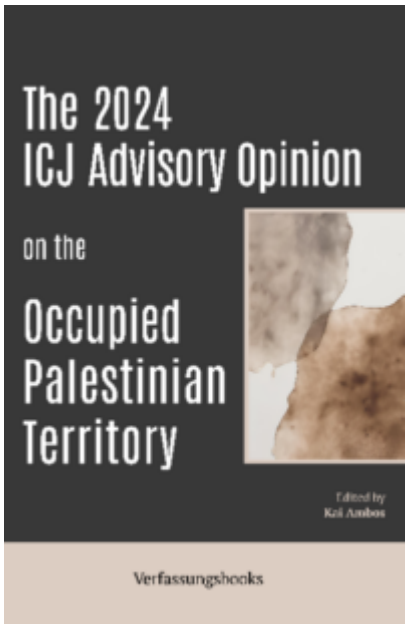



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The fact that **freedom of expression in India** is under pressure has often been a topic of discussion for us. Now, the Indian Supreme Court has ruled on two widely followed cases in the country, involving statements made by a podcaster and a legislator of the Legislative Council of the State of Bihar. ANMOL JAIN (ENG) explains why these rulings are yet another troubling sign for the state of free speech and instead represent a form of "judicial paternalism."

The shockwaves from Washington also triggered unexpected political dynamics in Germany. To make the Bundeswehr combat-ready, the constitutional **debt brake** is set to be adjusted, alongside a special fund of 500 billion euros for infrastructure repairs. But why this division of fiscal policy into budgets and special funds in the first place? FLORIAN MEINEL (GER) uses the current debate to contextualize the debt brake within Germany's political economy, showing that we are facing nothing less than a split in the financial constitution—one with potentially delicate democratic consequences.

GREGOR LAUDAGE (GER), too, examines the new parliamentary dynamics surrounding **constitutional amendments**. Contrary to some opinions, he argues that it is constitutionally unproblematic for the old Bundestag to pass reforms before the new one is constituted.

However, the German Bundestag faction CDU/CSU seems to find it problematic that civil **society organizations** do not act politically neutrally. In a parliamentary inquiry with a staggering 551 questions, the CDU/CSU faction interrogated the Government about selected civil society actors, sowing targeted distrust in civil society in the eyes of many. FIETE KALSCHEUER (GER) uses this debate to explore state funding requirements developed in case law, arguing that without parliamentary legal grounds, public funds should not (directly or indirectly) be used to organize protests against political parties.

Although **asylum and migration policy** currently take a back seat to foreign and financial policy issues, it will play a central role in the coalition talks between CDU/CSU and SPD. Often, the debate centers on the concept of national sovereignty and its tension with EU law and international obligations. PHILIPP REHM (GER) argues against pitting national sovereignty against transnational legal systems, asserting that democratic popular sovereignty must be considered in tandem with a commitment to human rights.

Recently, the German Bundestag and Bundesrat passed a law to assist women who have been victims of violence. The law aims to implement Articles 22 et seq. of the Istanbul Convention, an internationally binding treaty for the prevention and combating of violence against women and domestic violence. REBEKKA BRAUN, DILKEN ÇELEBI, and CATHARINA CONRAD (DE) explain why, despite this gender equality success, reforms required by international and European law have yet to materialize.

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Take care and all the best!
Yours,
the Verfassungsblog Team

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SUGGESTED CITATION
Cherviatsova, Alina: When Law Fails, War Follows, Verfassungsblog, 07.03.2025, doi: 10.59704/fbf24e07e4dfd294.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20250308-001155-0.