
BOOK REVIEWS

Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations, by Eileen Denza. Clarendon Press, Oxford, 1998. ISBN 0-19-826582-4, 451 pp, £95.00.

This book constitutes the second edition of a previous version published by Oceana Publications, in 1976. In the course of the more than 20 years which have passed since then, the first edition had become recognized as a standard work on diplomatic law. Written as it was by an Assistant Legal Adviser of the United Kingdom Foreign Office at the time the 1961 diplomatic conference convened in Vienna to draft a *traité-loi* concerning this area of law, the first edition was mainly based on the practice of this particular country. The second edition has substantially broadened the scope of the book by including other states in the analysis of state practice since the entry into force of the legal document ensuing out of this 1961 conference, i.e. the Vienna Convention on Diplomatic Relations (hereinafter cited as 1961 Convention).

Many interesting cases, sometimes revealing instances of flagrant abuse of diplomatic immunity, have indeed come to the fore since 1976, sometimes capturing the front page news for prolonged periods of time. Whether it concerns the International Court of Justice which rendered its decision in the Case concerning United States Diplomatic and Consular Staff in Teheran in 1980, the United Kingdom confronted with the shooting of a policewoman from inside the premises of the Libyan Embassy in London in 1984, or the 1996 armed evacuation of the residence of the Japanese Ambassador in Peru after guerrillas from the Tupac Amaru Revolutionary Movement had seized control of the building, taking 480 hostages, all these different instances are thoroughly analyzed by the author and related to the respective article(s) of the 1961 Convention. But also the less visible recent developments are covered, as for instance the latest instances of UK and US case law concerning the exact moment of commencement of diplomatic privileges and immunities, which more than once gave rise to problems in practice.

For a book like this, it is of course materially impossible to cover every single instance of state practice in the area. The decision of Kazakstan for instance to move the seat of the government from Almaty (former Alma-Ata) to Akmola (renamed Astana on 6 May 1998) in 1997, could for instance have been added as a further example of developments under Article 12. Just as was the case when Brazil moved her capital from Rio de Janeiro to Brasilia in 1972, i.e. to a more central location in the country, there was a certain reluctance of diplomatic missions to relocate their embassies to a much less appealing place, the infrastructure of which had moreover not yet been completely finished by the time

these missions were requested to change location. In both cases, the government had to exercise a certain amount of pressure before all foreign missions finally proved willing to comply with the request. The case of the Ambassador of Zaire in France who killed two 13-year old youngsters on a pedestrian crossing while driving in the Southern part of that country late 1996, is duly mentioned under Article 32 in general, but could maybe also have deserved attention under the specific subheading of 'Authority to Waive Immunity' due to the very particular circumstances of the case *fin de règne* of President Mobutu who, being treated for cancer and allowed to make use of his villa in Southern France by the government of that country, despite international pressure, indicated right after the incident that Zaire would examine the French request to waive immunity 'in a positive sense'. But when it became apparent that several members of the Parliament of Zaire would refuse to give a positive advise on the matter, the Minister of Foreign Affairs started to send out quite an opposite signal (*Le Monde*, 26 December 1996, at 18), but was dismissed soon afterwards (*id.*, at 3). The President, instead of following the required Parliamentary procedure to waive immunity, decided soon afterwards by Presidential decree to put an end to the Ambassador's functions. At the same time he gave the assurance that the person in question, who had been recalled to Zaire in the meantime, would turn himself in to the French competent authorities (*Le Monde*, 23 January 1997, at 9). This move was strongly contested in the media in Zaire at that time (*Le Monde*, 4 February 1997, at 31).

This updated version was moreover able to rely on a number of policy documents which have seen the light of day in the intermediary period. Some of them emanated from states, and are thus an indication of state practice, while others, which specifically try to further develop particular aspects of diplomatic law, were drawn up by a variety of other bodies. As an example of the first category, the United Kingdom can be mentioned. In 1985 this country issued an extensive review of the 1961 Convention and adopted two years later the Diplomatic and Consular Premises Act. In the United States several notes issued by the State Department have clarified the position of this country in particular areas of interest and Congress passed the Foreign Missions Act in 1982. Even new actors on the scene are not neglected, such as the 1995 decision of the representatives of the governments of the member states of the European Union, meeting within the Council of Ministers (95/553/EC, *Official Journal* No. L 314 of 28 December 1995, at 73-76), obliging every diplomatic representative to treat a person of another Member State seeking help as if he were a national of the state which the diplomat represents. With respect to the second category, reference can for instance be made to the Council of Ministers of the Council of Europe which adopted a recommendation in 1987 containing a model agreement to enable members of the family of a member of the diplomatic mission to engage in gainful occupation. Also the further work of the International Law Commission needs to be highlighted in this respect, since this body specifically addressed the

topic of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier during the 1980s.

Besides this there is much more thorough substantive coverage, as further indicated by the fact that the table of cases alone more than doubled in number of entries, the second edition also introduces a number of structural improvements. The book, whose object it is to provide a commentary on the 1961 Convention, is structured on an article by article basis. This is very convenient if one is looking for a concrete issue, but requires perseverance if the reader wants to obtain a bird's-eye perspective on the latest developments in the field of diplomatic law. Several small changes have nevertheless been introduced which try to accommodate this latter category of readers. First of all, a section has been included in the introduction, in which the author summarizes the manner in which the conventional regime has changed since its inception. Secondly, the use of footnotes instead of endnotes certainly improves the readability. Thirdly, reference can be made to the fact that, much more than in the first edition, the rigid structure was put aside by splitting up certain articles in two or more parts in order to improve internal coherence of the 'chapters' so obtained.

These substantial and structural improvements, made to the book which already had become a standard work in its own right, leave no doubt as to its future. It will be very difficult indeed for anybody interested in diplomatic law, practitioners and scholars alike, to justify the luxury of not having to consult it.

As a Belgian lawyer interested in diplomatic law, finally, the book is of course particularly appreciated for the many references to Belgian state practice. The relevance of this observation should however immediately be scaled down to its true proportions, since these numerous references do not so much seem to reflect the particular importance of this country in the general development of diplomatic law, but rather the easy access one has to a detailed and exhaustive analysis of Belgian state practice through consultation of the standard work of J. Salmon (*Manuel de droit diplomatique*, (1994)). One can only hope that by the time the third edition will be envisaged, many other similar treatises like the one just mentioned will have been published so that, following the laudable trend introduced by the second edition, the practice of even more states can be covered.

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