

Abstract

This diploma thesis deals with diplomatic protection and its current development. It compares the development of diplomatic protection, keeping in mind the Draft Articles on Diplomatic protection of International Law Commission of the UN and the approach of the Czech Republic. The thesis is focused on efforts of the codification of the institute in the 20th and the 21st century and three sessions of the UN according to the framework of diplomatic protection, which did not end up being successful. Also the next session of the General Assembly of the UN (in 2019) and its possible contributions are mentioned. First part of the thesis is theoretical and explains the term diplomatic protection and its content. In the first chapter historical roots of diplomatic protection are mentioned as well as the issue of human rights and international responsibility which is connected to diplomatic protection. Second chapter deals with the legal principles that are connected to the diplomatic protection and are as follows: a discretionary power of the state to provide diplomatic protection, the Calvo Clause, the theory of fiction, the clean hands doctrine. The third chapter mentions conditions that have to be met in order to be able to exercise diplomatic protection, e.g. nationality, exhaustion of local remedies and its possible exemptions. The issue of dominant or effective nationality and possible tools for exercise of diplomatic protection are also discussed in this chapter. Fourth chapter is focused on diplomatic protection of natural persons and legal entities. This chapter also explains the difference between diplomatic and consular protection, two terms which are usually confusing to the public. The Fifth chapter is focused on codifications of diplomatic protection in the 20th and the 21st century and International Law Commission of the UN. In chapter six, the thesis focuses not only on the Draft articles but also on its possible positive outcomes and difficulties. Chosen provisions of the Draft Articles are also mentioned throughout the chapters of the thesis. The thesis also includes a comparison of the current situation in the international field as well as the opinion of the Czech Republic and its national law.