

Diplomatic Protection and its Provision in International Law

Abstract

The thesis deals with diplomatic protection in a formal sense, especially concerning natural persons who do not have strictly one citizenship. The text of the thesis is divided into five chapters. First one is focused on the concept of diplomatic protection and its requirements. The second chapter contains development of its codification with an emphasis on Draft Articles on Diplomatic Protection. The third and fourth considers the possibility of providing it to stateless individuals and individuals with multiple nationalities. Finally, the relevance of diplomatic protection in the present day is discussed, considering the increasing number of human rights conventions and bilateral investment treaties.

Analysis and synthesis are predominantly used in this thesis as well as comparative and descriptive research methods. The main aim of the thesis is to investigate the possibility of providing diplomatic protection to an apatrid or an individual with multiple nationalities and its conditions. The additional objective was to determine whether the provision of diplomatic protection to a natural person is still requested in case of injury.

The main finding of the present thesis is the existence of possibilities to exercise diplomatic protection in respect of stateless persons if they lawfully and habitually reside in the state exercising diplomatic protection at the date of injury and the date of the official presentation of the claim. It is also possible to exercise diplomatic protection in respect of an individual with multiple citizenships against a state, of which the individual is also a national, if the nationality of the plaintiff state is predominant at the date of injury as well as at the date of the official presentation of the claim. The exercise of diplomatic protection on behalf of the individual with multiple citizenships against a third country is generally permissible.

It is concluded that diplomatic protection remains a relevant part of international law, since natural persons are not yet true subjects of international law. Furthermore, alternative methods of claiming remedies are not globally widespread with problems in claiming remedies, especially in Asia.

Key words: diplomatic protection, stateless person, person with multiple citizenships