The Non-Customary Practice of Diplomatic Asylum
Péter Kovács and Tamás Vince Ádány

in Diplomatic Law in a New Millennium

This chapter focuses on the grant of diplomatic asylum. It provides an overview of the development of this legal institution in Latin American law and its consideration in the Haya de la Torre case, but it also reflects on incidents from the rich history of diplomatic asylum, reaching from the case of Cardinal Mindszenty to Julian Assange. The authors analyse legal arguments which were advanced on the various controversies surrounding diplomatic asylum, including the possible distinction between asylum on the one hand and shelter or refuge on the other, but also the impact of potential ‘extraordinary’ circumstances on the legality of asylum. This chapter also offers conclusions on the question whether the grant of asylum is to be considered an abuse of immunities or embraced by diplomatic tasks, and whether there are possible grounds precluding responsibility, if it were found to be the breach of an international obligation.
modern diplomatic law. They include diplomatic asylum, the treatment (and rights) of domestic staff of diplomatic agents, the inviolability of correspondence, of the diplomatic bag, and of the diplomatic mission, the immunity to be given to members of the diplomatic family, diplomatic duties (including the duty of non-interference), but also the rise of diplomatic actors which are not sent by States (including members of the EU diplomatic service). Diplomatic Law in a New Millennium explores these matters in a critical, yet accessible manner, and is therefore an invaluable resource for practitioners, scholars, and students with an interest in diplomatic relations. Its individual parts deal with the history of diplomatic law, personal and property immunities, diplomatic obligations, and the position of representatives of international organizations, of the EU, and of sub-State entities. The authors of the book include some of the leading authorities on diplomatic law (including a delegate to the 1961 conference which codified modern diplomatic law) as well as serving and former members of the diplomatic corps.

On the Road to Vienna
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This chapter focuses on the negotiations that preceded the 1961 Vienna Conference (which led to the conclusion of the VCDR). The author challenges the view that the successful codification was an obvious step and refers in this regard to a history of intense negotiation which spanned fifteen years. With particular reference to the International Law Commission (ILC), the chapter explores the difficult task faced by ILC members to strike a balance between the codification of existing practice and progressive development of diplomatic law. It reaches the finding that the ILC negotiations were crucial for the success of the Conference, but notes also that certain States supported a less-binding form of codification. The chapter also underlines the fact that many issues that had caused friction between the Cold War parties were settled during the preparatory meetings and remained largely untouched during the 1961 negotiations.