

Oliver Dörr
Kirsten Schmalenbach
Editors

Vienna Convention on the Law of Treaties

A Commentary

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Preface

The law of treaties forms the backbone of the international legal order. There would be no international law without the principle *pacta sunt servanda*, no legal security in international relations without the strict definition of grounds for the invalidity of treaties, no effective dispute settlement without universally accepted rules of treaty interpretation. As much as treaties contribute to the peaceful co-operation of States and other international actors, so does the international law of treaties to the fundamental role of treaties and, thus, provides an important element of international peace and security.

Given the importance of treaties and their law for the international legal order, it is hardly surprising that already in 1949, the International Law Commission awarded priority to the codification project. Over centuries, international practice has developed a set of rules that strives for a balance between the sovereign will of States, good faith, the importance of consensus and the needs of the international community. Those rules were finally codified in the Vienna Convention on the Law of Treaties in 1969 which, beside codifying recognized rules of customary international law, added quite a few progressive elements to the international law of treaties. After the adoption and the entry into force of the Convention on 27 January 1980, the law of treaties continued to evolve, so that the element of stability which the Convention, as a codificatory effort, brought into the international relations of States, was combined with the dynamics of international practice for which the Convention, as a set of mainly residual rules, leaves considerable room. Both elements of the international law of treaties, the traditional rules and the dynamic practice aiming at the progressive development of the law, are supposed to be reflected in the present Commentary.

Despite the long time and the great number of reports and debates that it took the ILC to prepare the text of the Convention, the latter is no self-explanatory piece of international legislation. Without detailed knowledge of international practice and jurisprudence or of the *travaux préparatoires* of the Convention, the language of many provisions may leave the reader confused or set him or her on the wrong track. It is the aim of the present Commentary, therefore, to explain language and

purpose of the Convention in the light of international practice and jurisprudence with regard to the law of treaties.

Due to the sheer length of the Convention and the amount of relevant material on the law of treaties, this book is the result of a joint effort of twelve scholars. Our sincere thanks go to the authors for their co-operation, their patience and their readiness to adapt to the editors' guidelines and deadlines.

Last but not least, we would like to acknowledge the help of several people in Salzburg and Osnabrück without whom this work would not have seen the light of day. Our sincere thanks go to the editorial assistant in Osnabrück, Sue Gerigk LL.M., and the editing team in Salzburg, especially Alexander Brenneis as the man in charge, as well as Lando Kirchmair and Thomas Rauter. Marco Athen and Anna-Katharina Kraemer were responsible for the final revision done in Osnabrück.

Padraic McCannon (Osnabrück) checked and edited the English language. Ludwig Wagner (Salzburg) was responsible for the time-consuming and painstaking task of producing the Table of Cases. The efficient team of student assistants – Peter Manhartsberger and Isabella Breit (Salzburg) – was heavily involved in the final editing process. Thanks to all of them for their tireless commitment, enthusiasm and patience.

Oliver Dörr
Kirsten Schmalenbach

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