Preface

This handbook describes and analyses Belgian practice of diplomatic law. Dealing with Belgium exclusively in its role as a receiving State, it focuses upon issues around the reception of foreign diplomatic missions on the territory of the Kingdom and not questions arising from missions sent abroad by Belgium. As the regime applicable to missions accredited to the European Union by non-member States is largely similar to that of missions accredited to Belgium, such missions are also covered by this study.

Belgian ‘practice’, in this case, essentially consists of a limited number of legislative or regulatory provisions1; positions taken by the Minister of Foreign Affairs or other members of Federal Government, including in statements before one of the Houses of Parliament; the practice of the Protocol Directorate of the Federal Public Service Foreign Affairs, primarily set out in many ‘circular notes’ communicated to missions present in Belgium; finally of some customs and other ‘trends’ followed – at the time of writing – by various competent authorities. Jurisprudence of courts and tribunals is also identified, highlighting possible deviations from the practice of the executive branch.

Focused specifically on Belgian practice, where it could be identified, this handbook is designed as a guide intended primarily for diplomatic missions established in Belgium. Offering just an overview of a number of questions that we have encountered in our practice as lawyers, it is therefore not intended to be a full doctrinal study of the general aspects of the law of contemporary diplomatic relations. These general aspects are addressed in excellent publications to which we can only refer2. The same applies to the practice and jurisprudence of States other than Belgium, as well as the works of the International Law Commission. In order to lighten the

1 With particular regard to the field of immunities – of the State or its organs – Belgium is not among the States whose tradition is to regulate this matter in their domestic law. Rare exceptions may nevertheless be noted: see Articles 1412ter and 1412quater of the Judicial Code (immunity from execution of the foreign state for the benefit, respectively, of some of its cultural property and the assets of its central bank located on Belgian territory), or Article 1bis(1) of the Preliminary Title of the Code of Criminal Procedure (immunity from criminal jurisdiction of ‘persons whose immunity is recognised under international law’ and those ‘who have immunity, total or partial, based on a treaty that binds Belgium’).

presentation somewhat, only the works of J. Salmon and of E. Denza\(^1\) are cited in the footnotes, on points of a more general nature and where it appeared useful to make reference to more doctrinal works.

It is understood that this handbook does not in any way constitute a document of the Federal Public Service Foreign Affairs or any other Belgian public authority. In particular, regarding the circular notes of the Protocol Directorate referred to herein, only the text adopted by the Directorate should be regarded as authentic\(^4\).

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\(^1\) See the previous note. They are hereafter respectively referred to as ‘Salmon’ and ‘Denza’.

\(^4\) We have taken into account the circular notes of the Protocol Directorate published on their website up to 31 March 2014.