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The Interaction between International Private Law and Space Law and its Impact on Commercial Space Activities (2)

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TOWARDS A NEW INTERNATIONAL SPACE LIABILITY REGIME ALONGSIDE THE LIABILITY CONVENTION 1971

Abstract

Private space activities will affect the future of the space developments in numerous ways. Liability of private section is naturally different from responsibility of states and public section in international law. The former is discussed in private international law; however, the latter is discussed in general international law. Although the Liability Convention provides provisions that includes liability regime for states and private section, there are ambiguities about liability of individuals. There are, for instance, questions as to whether it covers a space station, especially if it is permanently installed on the moon or another celestial body. Whether it covers space tourist's death or bodily injury in space accidents? A likewise pending question - of particular interest to private sections - concerns payloads of space objects as space assets. Unlike other parts of a space object, the payload is exchangeable and variable. It cannot be considered to be an essential element since a space object is still a functioning space object without the payload. Keeping this in mind and drawing an analogy to, for example, the cargo of a truck, it seems far-fetched if not impossible to construe payloads as component parts. These inaccuracy and incompleteness in the Liability Convention has influenced private space activities in recent years. The assumption is that the Liability Convention being unable to include private international provisions relating to liability of individuals and private section. The question is if it is not the time for states to amend or complete the Liability Convention. This article tries to analyze the interaction of the general international space law and private international space law focusing on liability in order to propose a need New International Space Liability Regime alongside the Liability Convention 1971.