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Legal Evidence from Outer Space (4)

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LEGAL EVIDENCE FROM OUTER SPACE: AN APPROACH TO SPANISH JURISPRUDENCE

**Abstract**

This paper focuses on Spanish jurisprudence and the use of the legal evidence from outer space. Since 1998, there are numerous judgments that consider remote sensing as a mean of proof in Spain. It should be outlined three key judgments: sentences 479/2009 and 609/2009 of the Tribunal Superior de Justicia de Castilla-La Mancha and the sentence 612/2008 of the Tribunal Superior de Justicia de Castilla y León. Regarding the first two judgments, they make a positive consideration of the remote sensing: “We should refer to the key and decisive test in rejecting the appeal: remote sensing reports (...) shall discuss the probative value of remote sensing techniques”; “These issues leave little room for pure legal argument, to enter fully into the objective assessment ”; “However, the probative value of reports of remote sensing has been discussed in court. The Supreme Court’s jurisprudence has recognized the validity of reports of remote sensing”. At the same time, these two judgments also make the following considerations: “However, it is convenient to specify that it is not enough with the supply of the graphic image, the images captured by satellite, as the graphic itself is not proof. What it has value as proof is the report of the technician subscribing it, his testimony expert and objective” ; “The image, despite being a photograph (a graphic record absolutely objective) is an instrument to facilitate the explanation of the interpretation made of some data obtained through satellite technology and their subsequent computer processing”; “They are, as with an x-ray, ultrasound or MRI,(...) images obtained by scientific means that allow the study of a reality not perceptible by our senses”. Concerning the sentence 612/2008: “remote sensing is a system that has to be understood right per se to verify a certain level of default in relation to the statement”; “remote sensing systems can provide evidence about the level of compliance with the initial declaration, in the same way that control systems by classical field observation in situ by the controller”; “It cannot be denied that the controls by detection systems may serve to demonstrate the existing level of planting plots in the same way that controls emanating from the physical presence of officials, checking in situ field.”