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DEFINING THE FRONTIER OF SPACE COMMERCIALIZATION - ANALYSIS ON THE
NORMATIVE IMPLICATION OF UNIDROIT SPACE PROTOCOL FOR CORPUS JURIS SPATIALIS

Abstract

Space commercialization has entered into an era that calls for the emergence of private international space law, which is expected to focus on the commercial transactions and contracts in particular. The Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets (“Space Protocol”) aims to facilitate and endorse asset-based financing pattern in the space sector. This paper intends to explore how this new treaty would shed a light on the corpus juris spatialis from the normative perspective.

The Space Protocol stands as the first legislative endeavor to address interests of the private space sector on the international level. The “exploratory” approach is evidenced by the contrast between the success of the Aircraft Protocol and the ten-year drafting process of Space Protocol due to the particularity of space assets and the multiple goals of commercial space activities.

The “prescriptive” nature of the Space Protocol is that it fulfills the lack of guidance and motivation under national law to address this issue by dictating the rules on creation, perfection and enforcement of security interests on space assets.

The “evolutionary” approach of this treaty is demonstrated by the compromised solution of the conflict between the self-justified regulation of access to space assets under national law and the expeditious remedies to repossess space assets. It keeps the door open for creditors to be repaid through the intangible commercial value of space assets, which implicitly requires a more transparent and responsive procedure for adjudication. These new driving forces will contribute to the evolution of space law.

To sum up, the implication of the Space Protocol can be concluded as a possibility that states will be motivated to develop a common “margin of appreciation” for commercial space interests and eventually lead to the harmonization of legislative initiatives in national laws and policies of participating states.