

58th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)  
Interactive Presentations (IP)

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ASSISTANCE BY THE LAUNCHING AUTHORITY - REQUIREMENT OR ENTITLEMENT?

**Abstract**

When owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a Contracting Party to the ARRA, the respective Contracting Party (i.e. which has jurisdiction over said territory) is obliged to immediately take all possible steps to rescue them and render them all necessary assistance (Art 2 ARRA). According to Art 2 ARRA, the Launching Authority is obliged to assist a contracting party in its efforts to rescue the astronauts if such assistance would help to effect a prompt rescue or would contribute substantially to the effectiveness of search and rescue operations. The Launching Authority may be interested in assisting the state where the crew of the spacecraft has landed. On the one hand, it is in the interest of the Launching Authority to quickly find and rescue the crew (and possibly recover the spacecraft). On the other hand, the Launching Authority may be interested to participate in the recovery effort to safeguard potentially highly skilled personnel, sensitive technology and scientific data and keep their exposure to a foreign government at a minimum. The state where the astronauts have landed may request the assistance by the Launching Authority for several reasons. For example, it might lack the expertise and or technology to carry out a recovery operation properly. Any assistance by the launching authority might hence be welcome. On the other hand, a state might not wish the participation of the Launching Authority in the recovery effort. Reasons for this might range from sovereignty issues to security matters – not to forget questions of national prestige. According to Art 2 ARRA, the launching authority has to assist with the efforts to recover and retrieve such a space object. But can the launching authority derive any entitlement to participate in a recovery operation from this article? Or can the launching authority only actively engage in the recovery effort when requested to do so by the respective Contracting Party? The Launching Authority might argue that its active involvement in the rescue effort would constitute a substantial contribution to the search and rescue operation. The contracting party on the other hand could argue that involvement by the Launching Authority might hinder the rescue efforts.