

58th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Joint IAF-IISL Session on the Legal Framework for Collaborative Space Activities (7-B3.8)

Author: Ms. Anita Rinner
Karl Franzens Universität Graz, Austria

Prof. Lesley Jane Smith
Germany

IMPACT OF INTERNATIONAL CODE OF CONDUCT FOR OUTER SPACE ACTIVITIES AND EU
CONTRIBUTION TO COLLABORATIVE PROJECTS - DEVISING A NEW APPROACH FOR
SPACE LAW IN EUROPE

Abstract

Art 189 (3) Treaty on the Functioning of the European Union (TFEU) provides that the European Union (EU) has no competence to harmonise existing member state space legislation. Nevertheless, some alignment is needed; an alignment of European space law has developed consistently over the last decade, though rather through the backdoor. The Draft of the European Code of Conduct for Outer Space Activities - renamed in 2014 as the International Code of Conduct – despite its status as soft law - is a possible instrument for developing harmonised European standards in space debris mitigation, space traffic management and the sustainable use of outer space. Much has already been done at the level of ‘soft law’ space standardisation by the European Space Agency in developing the European Cooperation for Space Standardization (ECSS). Nevertheless it seems that the EU is paving the way for a common space law, at least for specific sectors, such as the use and dissemination of space data. This can be seen in the Proposal for a Directive of the European Parliament and the Council on the dissemination of Earth observation satellite data for commercial purposes, [Brussels, 17.6.2014]. The proposal emphasises the demand for free circulation of satellite data within Europe, but in practice offers little evidence of such a need in the single market for spatial imagery. This paper takes as its starting point the fact that the EU has no competence-competence to regulate general space activities for its Member States. It discusses what the new approach towards a European space law might indicate for the “shared competence” laid down in Art 4 TFEU. In outlining the potential competence conflict in moving towards a European Space Law, it outlines the by-product of creating added value and solutions for a common European space law strategy.