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The relationship of international humanitarian law and territorial sovereignty with the legal regulation of outer space (2)

Author: Dr. Olga Volynskaya
State Space Corporation ROSCOSMOS, Russian Federation

THE APPLICABILITY OF THE RIGHT TO SELF-DEFENCE TO THE AREA OF EXPLORATION
AND EXPLOITATION OF OUTER SPACE

Abstract

The modern space technologies form an inalienable part of our lives. Access to space is not only a question of national prestige, but first of all a source of advanced knowledge and achievements which cannot be obtained on the Earth, but are successfully applied for the benefit of the Earth economy. Nowadays the use of space technologies is so common that any "side" application of satellite systems – other than commercial – is not taken into consideration. However, it is these unobvious areas that pose danger. As the active global-coverage satellite systems, such as GPS or GLONASS, were created primarily for defence purposes, any political tension is capable to lead to the "switching off" or at least limitation of coverage of such systems. Satellites by nature are not weapons, but their role in support of armed forces and military operations on the Earth is evident.

In recent years the issue of the necessity to prevent utilization of weapons in space and preserve the freedom of outer space from military operations has been raised more and more often at the international fora. The problem of applicability of the fundamental right to self-defence recognised by Article 51 of the UN Charter to the area of exploration and exploitation of outer space is the cornerstone of such discussions at any levels.

This paper presents international law and international space law analysis of a range of aspects of applicability of Article 51 of the UN Charter to outer space, potential ways of its adaptation to the domain of exploration and use of outer space in the context of the long-term sustainability of space activities, the concept developed within the framework of the United Nations, as well as other related international initiatives in the area of promotion of safety, security and stability of space activities.