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

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A LINE TO BE CROSSED: HARMFUL INTERFERENCE AS A BREACH OF SPACE AND  
GENERAL INTERNATIONAL LAW

**Abstract**

Satellite services – communication, navigation, weather, earth observance and many others – nowadays significantly facilitate our everyday life. However, subjecting such satellites to harmful interference can result in significant damage in the outer space or on Earth or give to those who caused such interference substantial advantage in pursuance of their policies. Though spectrum management is a sovereign matter for each state, it is the ITU who is authorized to allocate the global radio spectrum and satellite orbits and precluding the radio waves from “crossing the borders”. Firstly, the ITU Regulations are directed at preventing harmful interference. Secondly, when dealing with the problems of harmful interference, they essentially rely on the states exercising “the utmost goodwill and mutual assistance” in their settlement. The ITU Regulations are part of the corpus juris spatialis and when the violation of them is established, such violation shall be remedied according to the rules enshrined in the outer space treaties. At the same time, an intent to coerce with respect to a choice in the matter, where a state is free to decide, or a display of force in order to exercise political pressure, can be accordingly qualified as a violation of the prohibition to intervene into internal affairs of a state or even as threat of force, established in the UN Charter. When actual armed force is being used against the sovereignty, territorial integrity or political independence of another state, it can even be qualified as a breach of the prohibition of use of force as set forth in the art. 2(4) of the UN Charter. This article focuses on the intersection of two legal regimes – space law and general international law – and aims at establishing the threshold when harmful interference can be seen as a breach of the ITU Regulations alone, and when – as a breach of the principles of non-intervention, threat (or even use) of force as set forth in UN Charter.