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HOW FAR-REACHING IS THE OBLIGATION TO PROTECT THE ENVIRONMENT OF
CELESTIAL BODIES ACCORDING TO CONTEMPORARY INTERNATIONAL LAW?

Abstract

The United Nations Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies in its Article IX lays down the obligation of states engaged in space activities to avoid harmful interference with the environment of celestial bodies while their exploration. The main shortcoming of this provision lies in its generality that poses difficulties in its enforcement in practice. Another treaty that specifically addresses the issue of exploration and use of celestial bodies and expands the provision of the Outer Space Treaty – the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies – is unfortunately the least popular one with regard to the ratifications by space faring nations. The result of this is that the norms of the Moon Agreement are not binding upon the states that never ratified it, unless they reach the status of international customary law. The latter issue is widely discussed by space law scholars and so far no agreement has been found on the matter.

Taking into account current state of the development of space law and the fact that the plans of states to explore the Moon and other celestial bodies become more realistic and expand, the question arises as to how the provision of Article IX of the Outer Space Treaty will be practically adhered to. This paper aims at exploring the issue of whether and how norms of other spheres of contemporary international law, in particular environmental law, can be applied to space activities in order to overcome the lack of details in the space law mechanisms and secure that the obligation of states to avoid harmful interference with the environment of celestial bodies is properly fulfilled.

The analysis includes the interpretation based on the relevant rules of international law of to what extend the sustainable development principle, precautionary and the polluter-pays principles are applicable to space exploration activities of states. This discussion supports the ultimate purpose of the paper to offer sound arguments to use relevant norms of international law by analogy in order to practically ensure that space activities do not harm the environment of celestial bodies.