

54TH IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Recent Developments in Space Law (5)

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THE FUTURE OF UNIFORM INTERNATIONAL RULES ON GNSS LIABILITY

Abstract

Incidents in recent years indicate the risk of GNSS signals malfunction. Whether or not we need a set of uniform international rules specific to GNSS issues, especially liability issues, has been discussed in the international society over years. This paper is to discuss the possible future GNSS liability legislation. It is therefore divided into the following four parts.

Part One will briefly examine whether the primary signal provider of GNSS bears any international responsibility and liability in case of the accidents caused by GNSS signal malfunction. While some system such as the Galileo provides service on the basis of contract, some other system such as the GPS provides service on the basis of a unilateral “service offer”. The existence of international responsibility and liability depends on whether the “service contract” or “service offer” create legal obligations of the service provider.

Part Two will focus on the international efforts of establishing uniform rules on GNSS liability. The efforts of two international organisations will be discussed here: one is ICAO, the other is UNIDROIT. In the Eleventh ICAO Air Navigation Conference, no consensus was reached as for the need of an international GNSS liability regime. Studies carried out by UNIDROIT also denied the possibility of having a GNSS convention in near future. However, efforts made by both indicate the important principles of liability of GNSS service provider.

Part Three will look into the state practice of the United States and European Union, which is the system provider of the GPS and Galileo respectively. State practice offers good models when there lacks uniform international rules. National legislation, or proposed legislation of both create the possibility of imposing liability on GNSS service provider.

Part Four will be the conclusion of this paper. Although there is little possibility that a convention on GNSS liability would be adopted in near future, the principles of the future uniform international rules still worth discussion. Some most discussed liability issues, including the basis of liability, the question of state immunity, jurisdiction, the scope of damage, and the channeling of liability will also be discussed here.