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Up, up and away: Future legal regimes for long-term presence in space (2)

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VILLAGES ON THE MARS? CONSIDERATION OF LEGAL CHALLENGES OF SETTLEMENTS ON  
THE MOON AND OTHER CELESTIAL BODIES

**Abstract**

Space Settlements have been a constant matter of discussion within the last decades. Many initiatives, as e.g. the Space Settlement Initiative or Institutes, e.g. the Space Studies Institute, have been promoting outer space settlement and have been researching technical capabilities. Even major space-faring countries have been favoring or advocating space settlements. One of the latest and probably most tangible attempts to establish a human outpost on Mars is the Mars One project. Mars One, a Dutch non-governmental, non-profit organization, launched its “Astronaut Selection Program” in 2013. It is committed to establish a permanent human settlement on Mars in 2023 which will grow constantly within the following years. The foundation received over 200.000 candidatures from over 140 countries in the first round of the application process.

Firstly, it will be elaborated upon whether the current space law regime allows settlements / colonization in outer space. Within this context, the author will secondly illustrate whether the *corpus iuris spatialis* allows to differentiate between governmental and non-governmental entities especially taking the state responsibility according to Art. VI sentence 1 OST and the duty to authorize and supervise the activities of non-governmental entities established by Art. VI sentence 2 OST into account. Thirdly, the question of whether the installations necessary to establish settlements in outer space have to be / can be registered as space objects according to Art. VIII sentence 1 OST and the REG will be elaborated upon, as this is crucial to determine which state, if any, enacts jurisdiction and control over those installations. Fourthly, concerning the general legality of settlements in outer space, special emphasis will be put on the principle of the freedom of exploration of outer space established by Art. I OST, the non-appropriation principle according to Art. II OST and the impact of Art. XII OST. On the one hand, Art. XII OST, which presupposes that “stations [and] installations [...] on the Moon and other celestial bodies” are constructed, is of interest, as it indicates that the drafting fathers were not opposed to such structures. On the other hand, it might be argued that the establishment of any installation constitutes appropriation by means of occupation. Finally, the author will outline whether or not possible settlers have to be considered as astronauts and enjoy the privileges of Art. V OST and the ARRA.