Paper ID: 26973
oral

57th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Legal issues associated with private human flight, including space and ground facilities, traffic management and spaceports (4)

Author: Dr. George Kyriakopoulos
National and Kapodistrian University Of Athens, Greece

JURISDICTION AND CONTROL OVER INSTALLATIONS AND FACILITIES SERVING SPACE TOURISM ACTIVITIES

Abstract

Space tourism is nowadays an extremely promising activity, although it still seems odd to many. A real "industry" has already been organised around this concept, growing everyday through private investment. Orbital or sub-orbital, tourism in space marks the increasing importance of private business activities in space.

The space tourism boom will inevitably affect some long-standing acquis of space law (as in matters of ownership in space, liability for space activities, identity of space objects, legal status of persons in space, etc.). This paper will focus on the possible legal consequences regarding the status of installations and facilities that serve space tourism activities.

Said installations and facilities (as, for instance, space ports or "space hotels") may be placed on Earth or in outer space (the case of the ISS); in the future, they can also be established on the Moon and other celestial bodies.

Space Law, in its present state, does not seem to be sufficiently elucidative for the legal regime of space installations and facilities:

Art I, OST, provides that outer space is free for exploration and use by all States, not being subject to national appropriation (art. II). However, the use of facilities necessary for peaceful exploration of the Moon and other celestial bodies "is not prohibited" [art. IV(2)]. Nonetheless, ownership rights are retained in space (art. VIII), which opens the discussion on the regime of installations constructed by earthy materials. The discussion gets more complicated with the right to visit "all stations (and) installations ... on the Moon and other celestial bodies" (art. XII).

Art. 8(2) of the Moon Agreement permits to States to "place their ... facilities, stations and installations anywhere on or below the surface of the Moon". Furthermore, Article 9 clearly stipulates that States may establish manned and unmanned stations on the Moon, although such stations must not "impede the free access to all areas of the Moon...". The legal status of said facilities/installations remains undefined, as their placement does not create a right of ownership over the surface or the subsurface of the Moon [art. 11(3)].

On the basis of the above considerations, this paper will apply the - somehow "blurred" - current space law regulations on installations and facilities in the context of space tourism, in order to measure the degree of their adequacy and, subsequently, propose the necessary interpretation and adjustments through which said legal status can be clarified.