

59th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Interactive Presentations (IP)

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THE MINERAL RIGHTS IN OUTER SPACE MINING

Abstract

The paper investigates the issue of mineral rights in the outer space with special emphasis on the mineral resources ownership.

In author's opinion the provisions regulating property rights in connection to mineral mining in outer space are rather limited. Moreover, the existing norms and rules have limited application, because there are some mineral resources, which cannot be considered as a celestial bodies in the light of the space treaties. The research has also shown that there is a prohibition of the appropriation of the celestial bodies on the private property plan.

The author believes that there are two main approaches in connection to the mineral rights in the outer space. The first one is based on the Common Heritage of Mankind paradigm, the second- on the modern attitude, which promotes the economic liberty in the space, individualism and development of the space activities. Although the first approach has a long history and is supported by the analogy to the sea law, the recent US Commercial Space Launch Competitiveness Act shows that the some countries use a new perspective. Regardless the approach, there is no doubt, that securing mineral rights in the outer space would be more beneficial to humankind, than keeping the issue unregulated.

The article also presents several viewpoints in regard to the legal statutes of minerals extracted from the Moon and other celestial bodies. In author's opinion there is a general rule, that such extraction is permitted, regardless whether is done for scientific or commercial purposes.

The paper ends with the conclusions de lege ferenda and general postulate to create the legal framework for mineral mining, which is essential for developing mining and other commercial activities in outer space.