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REAL-TIME CHALLENGES FOR THE REGISTRATION REGIME: WHERE TO?

Abstract

Registration is the sole basis for "jurisdiction and control" in outer space (Art. VIII OST) and also constitutes the basis for responsibility over a space object. It is therefore evident that ambiguities regarding registration are crucial for the safety of space operations. The discussion about registration has been escalating lately as space is becoming increasingly accessible with the diversification of space subjects. Simultaneously the practice of States indicates reduced diligence in registering their space objects. Initially, the present paper briefly recapitulates the different registries and processes based on the general rule that a launching State shall register a space object set by Art. II of the 1976 Registration Convention. It then turns to current challenges concerning the registration procedure as well as its consequences. Firstly, the term "launching State" is scrutinised, aiming to address several cases pf private launches where registration was omitted. Subsequently, the challenges posed by the transfer of ownership of in-orbit space objects are discussed. In this context, it is examined whether there is a rule of international law allowing for the transfer of registration where the registering State has no effective control over an object. Secondly, the paper analyses the notion of "launching State" in light of joint launching and launchings realised by international organisations. It further attempts to answer the relevant question of registration of mega-constellations. The paper concludes by reviewing the possibility of the desirable harmonisation and standardisation of the registration regime under the Registration Convention, the UNGA Resolution 62/101 and the newly added Guideline 6 of the Guidelines for the Long-Term Sustainability of Outer Space Activities in light of the aforementioned developments.