

## IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)

## Dispute Settlement in Space Law: Are We Ready for the Commercial Challenge? (2)

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DISPUTES IN SATELLITE COMMUNICATIONS:  
SETTLEMENT MECHANISMS AVAILABLE FOR BREACH  
OF COORDINATION AGREEMENTS**Abstract**

Among the numerous space activities, satellite communications remain the most widespread, essential, and advanced. To carry out a communication function, satellites need to use the radio-frequency spectrum. Access to such a limited natural resource, which requires rational, equitable, efficient, and economical use in an interference-free environment, is managed by the International Telecommunication Union (ITU).

Before a satellite is brought into use, the relevant administration effects coordination with other administrations which operate satellite networks in the adjacent orbital locations. The results of the coordination procedure are then reflected in coordination agreements to be executed by corresponding administrations or to be formally approved by them, if initially signed by satellite operators. Though coordination may last for years, the difficulty is not so much the conclusion of an agreement as its due performance and enforcement.

Coordination agreements contain mutually acceptable technical parameters for the operation of certain frequencies, and their breach is generally constituted in causing harmful interference toward communications satellites. At the request of administrations, the ITU Radiocommunication Bureau carries out investigations of harmful interference and submits reports to the Radio Regulations Board, who formulates recommendations. Such a process itself has a few drawbacks, while complete disregard for the content of coordination agreements makes it meaningless. These are considered by the Board as exempted from its examination.

If the Board's recommendations cannot satisfy the parties or are not duly followed, or if damage was caused by harmful interference and requires compensation, a judicial recourse seems inevitable. As disputes may involve states, intergovernmental organizations, and private entities around the globe, to which court should the parties apply? Commonly drafted by technical experts, coordination agreements hardly ever provide for the dispute resolution mechanism and governing law, while the application of general rules may bring parties to an exotic jurisdiction equally irrelevant to both.

Whatever court is chosen, the question of specific knowledge arises. The source of harmful interference is technically difficult to determine and legally challenging to attribute. However, ITU's practice had always been not to get involved in court cases.

Therefore, disputes arising from breach of coordination agreements in conducting satellite communications pose legal challenges. Where to adjudicate the case and which law to apply are just the tip of the iceberg, while the major question of whether there is a need for a specialized court remains significant. This field of space activities apparently requires legal advice.