

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
National Space Legislation – Harmonisation and Enforcement (3)

Author: Dr. Marco Ferrazzani
European Space Agency (ESA), France, marco.ferrazzani@esa.int

Prof. Stephan Hobe
University of Cologne, Germany, stephan.hobe@uni-koeln.de

Ms. Anja Nakarada Pecujlic
Cologne University, Germany, anja.n.pecujlic@outlook.com

Mr. Alexander Soucek
European Space Agency (ESA), The Netherlands, alexander.soucek@esa.int

THE ROLE OF INTERGOVERNMENTAL ORGANISATIONS IN ASSISTING THE DEVELOPMENT
AND IMPLEMENTATION OF NATIONAL SPACE LAW: AN EXPLORATION OF THE RATIONALE,
MANDATE AND LIMITS AS EXEMPLIFIED BY THE EUROPEAN SPACE AGENCY

Abstract

Since the very emergence of international intergovernmental organisations (IGOs) in modern times, their role, influence and competences in relation to their Member States have been a point of interest for scholars and practitioners likewise. IGOs, vested with international legal personality, act on the basis of their founding treaties, exercise different mandates and exert their influence in various ways, but regardless of the legal, political and practical differences and nuances, they do so within the perimeters of a very specific, reciprocal relation to their Member States.

These powers conferred upon IGOs usually do not entail regulatory competences that would take direct effect in their Member States, with one notable and well-known exception. However, in space law, IGOs may assume a specific function towards their Member States in advising, developing and implementing national space legislation. This paper aims to examine the rationale, mandate and the limits of the advisory role of IGOs vis-à-vis national space law by exploring, in both a theoretical and practical manner, the prime example of the European Space Agency (ESA).

ESA's founding instrument – the Convention for the Establishment of a European Space Agency – will be analyzed to explain the conditions under which ESA may offer technical and legal advice to its Member States in the development and implementation of national space legislation; but even more so, to attempt exploring the rational, benefits and limits of such interaction at the borderline between international cooperation and domestic legislative and executive power. Is ESA's contemporary role in the implementation and application of space law a unique example sui generis or rather a case in point for the extended role of IGOs in aiding the mitigation of legal fragmentation?