

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Dispute Settlement in Space Law: Are We Ready for the Commercial Challenge? (2)

Author: Dr. Simona Spassova
University of Luxembourg, Luxembourg

DISPUTE SETTLEMENT IN RELATION TO THE SCARCE ORBIT-SPECTRUM RESOURCE –
‘PREVENTIVE’ AND ‘REACTIVE’ ITU PROCEDURES AND THEIR RELEVANCE FOR PRIVATE
SECTOR ACTORS

Abstract

The exploration and sustainable use of outer space is dependent, not only upon technological developments and capital investments, but also on the availability of an interference-free spectrum-orbit resource for all the relevant radio communications. The increased number of actors and activities in space – both current and planned- is putting a strain on the coordination and allocation processes for available spectrum as well as on the subsequent observance of the international requirements in this respect. Geostatic positions and frequency allocations on an international level are done within the legal framework of the International Telecommunications Union (ITU) and can only be assigned to sovereign Member States. At the same time, most satellite communication operators are private commercial entities, licensed and supervised by their respective national administrations.

Hence, the aim of the article will be two-fold. First, it would examine the ways disputes related to the allocation and use of the spectrum resources are handled within the framework of the ITU. What is more, it will look into both the ‘preventive’ and the ‘reactive’ efforts to settle disputes within the framework of the organization. In other words: what is the ITU doing to prevent the potential for conflict and what measures does it offer for resolution once a conflict has occurred? Therefore, the study will analyze the well-known procedures under Article 56 ITU Constitution and the Optional Protocol on the Compulsory Settlement of Disputes, but it will also focus on the organization’s more recent efforts in relation to international monitoring, deadlines and processes for orbital position allocation and even on the role of the Union as a mediator. Different means of dispute resolution - will be examined together with the associated advantages – such as speed flexibility or confidentiality.

Secondly, the article will also analyze how these methods are in line with the needs of private operators and not only Member States administrations. Is the organization successfully balancing the modern-day realities in the sector with its constitutional provisions? The ITU brings together not only Member States, but also Sector Members from the industry. In doing so, it provides for a multi-stakeholder discussion. Arguably, as the oldest UN agency, the Union is remarkably fast and adept when responding to technological challenges and considering the needs of the private sector. Are these efforts sufficient in the realm of dispute resolution?