

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Moon and Mars Settlement: Open Legal Issues (2)

Author: Prof. Gabriella Catalano
Sapienza University of Rome, Italy, sgrossogabriella@gmail.com

NEW MISSIONS ON THE MOON NEW PROBLEMS NEW LEGAL SOLUTIONS

Abstract

The two projects of manned space missions on the Moon are the ones of United States and China. The Orion capsule, of the Nasa Artemis Project, that should be launched in 2020, should be able to dock in a small space station in orbit around the Moon, the “Lunar Gateway”. The project provides the possibility in 2024 of the Artemis 3 to land on the Moon.. The 1979 Moon Agreement is applicable just to the 18 States that ratified it, among which the ones that, at the moment, exercise mainly space activities are not included. The main reason is that the new exploiting regime of the Moon (laid down in Article 11 of the Agreement) is not accepted. This regime, according to the principle of Common Good of Humanity, wants to reserve a portion of this exploitation for the Developing Countries or those that are at the moment not able to do it. Not even the States that ratified it have negotiated an international regime that regulates the resource exploitation yet. Actually, after the agreement about the Moon, it begins for the States the transition from an hard law to a soft law, that takes shape in inter partes agreements in the joint ventures and in the General Assembly Resolutions of the United Nations not binding to soften the legal obligations imposed to the space nations and not. The paper will therefore focus on regulations of the Outer Space Treaty that are also applicable to the celestial body Moon. From the juridical point of view the regulations that are relevant are the ones that concern the access, the usage, the occupation and appropriation ban with all the consequent bans of pollution or not peaceful usage of the planet. The exercise of sovereign power on people and structures placed legitimately on the Moon, will be taken into account, especially with the presence of structures used in cohabitation, also respecting the right of visit from the other States for the legality review of the operations. The experience ongoing in common structures (ISS) will be useful. Trying to conciliate the information duty of research activities about space and celestial bodies with the protection of freedom of scientific research, the A. wants to demonstrate that it is possible to go towards a new interpretation of Common Good of Humanity that is also favorable to the Developing Countries.