

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Space Law in a Networked World (7)

Author: Dr. Cristiana Santos
Université de Toulouse 1 Capitole, France

Prof. Lucien RAPP
University of Toulouse I (UT1), France

NUDGING FOR SPACE

Abstract

The field of space is undergoing seismic shifts driven by NewSpace, SmartSpace, FastSpace, NowSpace, the GAFA web giants, newcomers, venture capital firms and start-ups. There is significant growth in number of space activities, space objects, and space actors. This reflects an increased repercussion of space activities on Earth, since the benefits and solutions that space provides for the problems and needs of mankind are becoming ubiquitous (communication, images and video flows, transport, navigation and positioning, smart city management, security, agriculture, climate change monitoring, etc.). This correlation Space-Earth evinces a more accentuated dependence of Earth from space-based services. The breadth of these space-based services and activities requires consideration of a broad range of legal and regulatory issues. The space community faces a critical juncture in reaching desired decision-making consensus concerning space issues (safety, security, environment, traffic management, etc.) at the international aegis, while needing to stay flexible and abreast of new technical developments. In general, the space sector is permeable to the recent observed trend of a new form of normativity called soft law that influences, in practice, the behavior of space actors. Alongside with this breadth adoption of space normativity, in this paper we observe the findings of behavioral studies in international law. We argue that behavioral expertise may enable regulators and policy makers to better understand and predict more accurately how space actors act and respond to particular types of rules (called bias). We allege that such knowledge could be used to design space nudges aligned with space actors behavioral tendencies and policy goals. We have endeavored to address the benefits that nudging, as a policy tool, could portray to space governance and decision-making, and examined several concrete examples of such nudges in play. We consider nudgetypes to motivate States towards action, yet sustaining their liberty, as a trade-off between flexibility and commitment. We proceed with opt-in and opt-out arrangements in multilateral agreements, goal-based nudges, rankings, cooperation on common problems, non-mandatory norms, reputation, temporary agreements and customary law.