

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)

IISL Young Scholars session and Dr. Jasentuliyana Keynote lecture by a leading space law expert (1)

Author: Ms. Theodora Liameti

National and Kapodistrian University Of Athens, Greece

Ms. Panagiota Brouma

National and Kapodistrian University Of Athens, Greece

Ms. Dimitra Anagnostopoulou

National and Kapodistrian University Of Athens, Greece

TRANSFER OF OWNERSHIP IN-ORBIT: SHAKING THE STATUS QUO AND RECALIBRATING
THE REGISTRATION & LIABILITY REGIMES

Abstract

The increased commercialization and privatization of space activities in light of the NewSpace era threatens to destabilize the foundations of international space law. Specifically, the augmentation of commercial transactions between private space operators showcases the inherent fallacies of the registration and liability systems as established under the current legal realm. The present paper reviews the triangular correlation between Article VI, Article VII, and Article VIII of the Outer Space Treaty. It further questions the act of registration as the exclusive legal basis for jurisdiction over a space object and discusses alternative links, such as ownership and effective control. The in-orbit transfers of ownership and the subsequent shift of control over the operation of satellites can potentially result in the following paradox; the State of Registry, having *de jure* jurisdiction over the space object, may not be the one having *de facto* control over it. Furthermore, the lack of uniformity and transparency in relevant state practice compromises the safety of space operations and highlights the need to reconsider the registration regime. This paper attempts, *inter alia*, to answer the following question; which is the most “appropriate” State to become the State of Registry? Moreover, it is argued that the immutable link between launching and liability creates unnecessary obstacles for private space activities. Specifically, the concept of “*once a launching State, always a launching State*” causes a proliferation of inter-State agreements, resulting in the fragmentation and diversification of international space law. In this context, an effort will be made to challenge the perpetual liability of the launching State and to demonstrate the need to attribute the duty to compensate for damages to the actual responsible State. The practice of transferring ownership -especially to non-launching States- reveals legal *lacunae* and raises questions on the competency of the existing national and international legal frameworks to regulate this complex commercial reality. Hence, finding a pragmatic solution, while considering both the interests of potential victims and the needs of the private space industry, is imperative. To this respect, current space law instruments, such as the Liability Convention, the Registration Convention and the UNGA Resolution 62/101 are scrutinised and other international law regimes are discussed. The paper concludes by examining the possibility of reinterpreting the *corpus juris spatialis* or adopting amendments, as is the case in relation to international air law and Article 83bis to the Chicago Convention.