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IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Near Space: Legal Aspects of Aerospace Activities (2)

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SPACE OR HIGH ALTITUDE: WHATS IN A NAME?

Abstract

With the launch of Sputnik in 1957, the need to define the outer space frontiers arose. Indeed, if in air law it is firmly established that a State holds sovereignty over its airspace, in space law, conversely, States cannot claim sovereignty over any part of outer space. No internationally agreed boundary separating airspace from outer space exists. The delimitation between space and aerospace has been a topic of debate on the agenda of the UNCOPUSS LSC for over 50 years and is still under discussion. The number and nature of unanswered questions underscore the complexity of the qualification issue, and illustrate why this matter has been subject to debate in international organisations. This topic has gained greater relevance in parallel to the increasing number of private actors and commercial activities in the field, and therefore fresh inputs to the debate were recently produced, emphasizing the urgency to address the topic. The fact that the technology for high-altitude operations is rapidly advancing and making it simpler to launch objects towards outer space, adds additional complexity to the dispute. In this context, sovereignty aspects coupled with geopolitical considerations notably account for the stagnation in the evolution of international rules, thus explaining the preference for regulations at the national level. This paper seeks to delve into the definition and legal aspects concerning high altitude activities by comparing various national space legislations that address these emerging endeavours.