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COMMON THE GOOD, COLLECTIVE THE RESPONSIBILITY: THE ARTICLE 48 OF THE
ARSIWA AND THE PROTECTION OF THE OUTER SPACE ENVIRONMENT**Abstract**

The so-called “space race” is thriving with renewed interest, and it assumes diverse forms compared to the past. The proliferation of space activities, spanning both public and private sectors, while on the one hand is certainly to be welcomed, on the other hand raises several concerns regarding the protection of the Outer Space as an environment. One paramount concern among many regulatory dilemmas arises: the international responsibility of States in case an activity under their jurisdiction should result in an unjustified pollution of the Outer Space. This study aims to demonstrate that this responsibility must take on a collective character, since the protected interest is collective, and hence, advocates for the applicability of Article 48 of the Articles on Responsibility of States for Internationally Wrongful Acts. The said provision, in fact, in the face of the breach of an obligation owed to the International community as a whole (*erga omnes*), allows every State to invoke the responsibility of another one, and to claim from the responsible State the cessation of the wrongful act, the assurances and guarantees of non-repetition and the performance of the obligation of reparation. Four topics are addressed. Firstly, the conceptualisation of the Outer Space as an environment and, thus, a common good whose preservation represents an interest of the humanity as a whole, through the examination of case law, major environmental treaties, and taking into account practical advantages that derives from the utilisation of the Outer Space. Subsequently, and consequentially, the identification of the obligations under international law mandating a sustainable use of the Outer Space, namely the articles I, III and IX of the OST and the customary “no-harm rule”, as “*erga omnes*” ones, given their aim to protect a fundamental interest of the international community and safeguard a “stateless space”. Ultimately, the reconstruction of the Article 48 of the ARSIWA as part of the customary international law and the demonstration of how this provision can be considered applicable to space activities, through a combined reading of Articles I, III and VI of the OST, which “open” the “*Corpus Iuris Spatialis*” to customary international law.