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INTERNATIONAL COOPERATION OF STATES IN OUTER SPACE EXPLORATION

State cooperation in space research is one of the priority topics of international space law. The calls for international cooperation contained in many documents on space law are aimed at preventing the transformation of outer space into a conflict zone. Space cooperation is a very effective way of the confidence-building, because it can reduce mutual suspicion, increase mutual trust and achieve mutual benefits. The space has become a powerful thruster of scientific and technological progress. This trend is one of many indicators pointing to the global trend involving key actors making a decision to make space activities a priority. Many countries come to the understanding that international cooperation is the best means of realization of space programs. At that, the issue of forms of such cooperation gains special importance. It is difficult to think of international space law and the governance of international affairs in isolation from international organizations. The states have joined their efforts in the framework of international organizations with the aim of cooperation in the space sector. In this article we will try to analyze the legal foundations of international cooperation of states in outer space exploration.

Key words: international space law, legal regime of the outer space, international responsibility of states, space activities of mankind, global role players.

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Ғарышты игерудегі мемлекеттердің халықаралық ынтымақтастығы

Ғарыштық зерттеулер саласындағы мемлекеттік ынтымақтастық – халықаралық ғарыш құқығының басым бағыттарының бірі. Ғарыш құқығы туралы көптеген құжаттардағы халықаралық ынтымақтастық туралы үндеулер ғарыш кеңістігінің қақтығыс аймағына айналуын болдырмауға бағытталған. Ғарыштық ынтымақтастық – бұл сенімді қалыптастырудың өте тиімді әдісі, өйткені ол өзара күдікті азайтуға, өзара сенімді арттыруға және өзара тиімділікке қол жеткізуге мүмкіндік береді. Бүгінгі таңда мемлекеттердің назары ғарышты игеруге бағытталған. Бұл тенденция ғаламдық үрдісті көрсететін көптеген индикаторлардың бірі болып табылады, бұл кезде негізгі қатысушылар ғарыш қызметін басымдықты етуге шешім қабылдады. Көптеген елдер халықаралық ынтымақтастық ғарыштық бағдарламаларды жүзеге асырудың ең жақсы тәсілі екенін түсінеді. Сонымен қатар, мұндай ынтымақтастық нысандары туралы мәселе ерекше мәнге ие. Халықаралық ұйымдардан оқшауланғанда халықаралық ғарыш құқығы және халықаралық қатынастарды басқару туралы ойлау қиын. Ғарыш саласындағы ынтымақтастық мақсатында мемлекеттер халықаралық ұйымдар шеңберіндегі күштерді біріктірді. Бұл мақалада біз мемлекеттердің ғарышты игерудегі халықаралық ынтымақтастығының құқықтық негіздерін талдауға тырысамыз.

Түйін сөздер: халықаралық ғарыш құқығы, ғарыш кеңістігінің құқықтық режимі, мемлекеттердің халықаралық жауапкершілігі, адамзаттың ғарыш қызметі, жаһандық рөлдік ойыншылар.

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Международное сотрудничество государств в исследовании космоса

Сотрудничество государств в исследовании космоса является одной из приоритетных тем международного космического права. Призывы к международному сотрудничеству,

содержащиеся во многих документах по космическому праву, направлены на предотвращение превращения космического пространства в зону конфликта. Космическое сотрудничество является очень эффективным способом укрепления доверия, поскольку оно может уменьшить взаимные подозрения, повысить взаимное доверие и добиться взаимной выгоды. Космос стал мощным двигателем научно-технического прогресса. Эта тенденция является одним из многих индикаторов, указывающих на глобальную тенденцию, когда ключевые участники принимают решение сделать космическую деятельность приоритетной. Многие страны приходят к пониманию того, что международное сотрудничество является наилучшим средством реализации космических программ. При этом вопрос форм такого сотрудничества приобретает особое значение. Трудно думать о международном космическом праве и управлении международными делами изолированно от международных организаций. Государства объединили свои усилия в рамках международных организаций с целью сотрудничества в космической сфере. В этой статье мы попытаемся проанализировать правовые основы международного сотрудничества государств в освоении космоса.

Ключевые слова: международное космическое право, правовой режим космического пространства, международная ответственность государств, космическая деятельность человечества, глобальные ролевые игроки.

Introduction

With technology development, the humankind came to realization of the fact that it has become within its powers to bring artificial objects and then people to the outer space. The global character of the space activity has called for appearance and development of the international space law. Currently, the attention of states has increased to the unique possibilities of using outer space for economic, defense and scientific purposes. Scientists from different states took part in the International Geophysical Year (1957-1958) to establish collaboration with scientists developing problems related to space exploration (Dodds, 2010:239).

During the past years we have already seen tremendous changes in the international space activities based upon flexible space policy. It is not only the rapid growth of the number of launches and satellites and other artificial bodies, which have been placed in outer space. It is also the number of actors as well as the variety of actors which makes space activities today a completely different setting than during the first decades following Sputnik. One of the most notable changes is the advent of private actors, which do not only stress the commercial aspects of spaceflights but which also require new approaches for regulation – new approaches which are necessary since the traditional space law is primarily based on regulating the activities of states in outer space.

Influence of the space law upon the cooperation manifests itself in creation of the common legal regime of outer space. The norms of international space law are contained in a number of international legal sources, primarily in international treaties.

The principle of cooperation between states in space exploration implies, first of all, the obligation

of states to facilitate the implementation of joint programs in accordance with international law, i.e. not to impede the establishment of international contacts in the field of research in space, to take into account the interests of other states, take measures aimed at developing and expanding international cooperation, follow the political and legal principles in interstate relations that determine the space regime, and strengthen the rule of law in space.

The term “legal personality” describes the fact that subjects (individuals or entities such as companies, organizations or states) possess rights and duties enforceable by law. In other words: legal systems recognize that certain subjects are the holders of legal rights and duties and thus they have legal personality (Soucek, 2015:104).

The development trends of cosmonautics are increasingly determined by economic factors. The involvement of outer space in the orbit of international relations is becoming increasingly important, which necessitated the international legal regulation of space activities. The legal bases of international cooperation of the state in use of outer space for peaceful purposes are: the key principles and norms of the international law, including the main principles of the United Nations Charter (peaceful settlement of international disputes, non-interference in internal affairs of the states, respect of state sovereignty).

International space cooperation is based on mechanisms which are chosen according to their suitability for a given case or even required in a given system: bilateral or multilateral agreements (international treaties, other forms of legally binding agreements (contracts, etc.); implementing arrangements; memoranda of understanding (in various forms); letters of mutual intent; technical guidelines and standards; the establishment of non-govern-

mental organization or another type of institutional structure (forums, working groups, committees, etc.). As an instrument, cooperation is purpose and goal-oriented; its goals are often defined in national or institutional space policies. The forms of international cooperation of the states in outer space exploration are joined bilateral and multilateral activities based upon relevant international treaties. Apart from the inter-state cooperation, international cooperation carried on by international organizations got widespread occurrence. Space-related international organizations can be classified as follows: regional or specialized international organizations dedicated to: the management of space program (e.g. ESA, APSCO); the management of space applications (e.g. telecommunication, meteorology); the UN system as a facilitator of space cooperation. Increase of the number of international organizations covering issues of space activity is a proof of increase of the role of the international space law, widening of the sphere of its regulation, demonstration of the main, with all its time deviations, vector of development of international relations. The term 'international organizations' is used as applied both to inter-state (inter-governmental) and to non-governmental organizations. However, their legal nature is different.

Significant contribution in the development of international cooperation in the outer space exploration is made by international non-governmental organizations. Significance of these organizations, created in the late 50s - early 60s for the purpose of development of contacts in the space research was especially weighty in the period when international inter-governmental organizations were not created yet or were in the stage of organizational formation. Committee on Space Research (COSPAR), which was created in 1958, laid the foundation of efficient international cooperation in the practical outer space exploration. Among COSPAR's objectives were the promotion of scientific research in space on an international level. Having become the first international organization of the non-governmental character, which was specially created for widening of international contacts and development of cooperation in the area of space exploration, COSPAR was a stimulus for creation and some other non-governmental agencies in the sphere of astronautics. The activity of the committee of COSPAR encouraged wide exchange of information and strengthening of international cooperation of the states. The important trends of the multilateral scientific cooperation on the non-governmental level were first of all, space communications and meteorology, space medicine, biology, etc.

States keep up playing the key role in the legal regulation of applied kinds of outer space use, since only states and international organizations created by them carry on law-making and law-enforcement activity on the international level (Martinez, 2001:307).

Methods

In conformity with the objectives of the article, the authors apply methodological tools; the authors use the historical method of data analysis, permitting to trace the processes of legal regulation of states cooperation in exploration of outer space; formation, functioning, and development of space organizations and their role in development of international cooperation of the states. In connection with it, works of domestic and foreign scientists as well as documents of specialized agencies of the United Nations have been studied.

Discussion

When the space age began, the international community immediately realized that it was essential to formulate international rules and regulation for the conduct of human activities in outer space because this new frontier was outside the bounds of existing international law. Krishna Rao (India) noted, in one of the first United Nations legal meetings held on this matter, that: the problems of outer space were fortunately not those of modifying an existing regime but of fashioning a new pattern of international behavior (Jasetuliyana, 1969:95).

Many researchers had urged that international cooperation is the only means to achieve and guarantee peaceful use of space and travel therein. They urged that immediate steps be taken toward achieving such cooperation. Jenks C.W. (1956) wrote that it would be entirely fitting, that control of space activities should be a world responsibility and every effort should be made to apply such a solution to the problem from the earliest stages of development. Jenks C.W. suggested that if legislative authority over human activity beyond the atmosphere of the Earth were to be regarded as vested in the United Nations General Assembly (UNGA), it would be possible for the UNGA to evolve progressively the necessary rules on the subject. Horsford C.E. (1956), Cooper J.C. (1956) wrote that the political consequences of any substantial conquest of space are so far-reaching that international body would seem to be essential, so great would be the need. Cocca A.A. (1954) had urged, that international cooperation be

the basic approach to spaceflight, so that the interests of all men would be collectively represented. As Cocca A.A. wrote "if the studies, plans, tests, and knowledge are under a universal public dominion, the vehicle that emerges from these studies should obtain the same juridical status. In which case the conquest of interplanetary space will be a conquest by humanity. Musto C. (1956) wrote that the attempt of man to explore space even if attempted by individuals, is an attempt to explore by the collectivity of mankind and will benefit the collectivity. Some basic principles are derived from this observation, wrote Musto C. the absolute freedom of overflight, freedom of flight after landing, financial support by all states, and the obligation of all states to assist, protect and favor the flyer (astronaut/cosmonaut) no matter what state he represents (Doyle,1997:4).

After the successful launch of the first satellites, the General Assembly set up the Ad Hoc Committee on the Peaceful Uses of Outer Space COPUOS in 1958. COPUOS and its two subcommittees have become the main center of international cooperation and coordination in the exploration of outer space. Scientists from different countries often during their speeches pointed out the need to pay special attention to the issues of monitoring the actions of states in space, as well as about making decisions on the main issues related to space research. The scientific work of many foreign lawyers outlined the issue of transfer of the outer space to the United Nations with all its authority and control over the activities of states in outer space (Clark, 1962:289). The expanding scale of cooperation between states in the exploration and use of outer space predetermines the need to search for new, more advanced forms and methods of international cooperation in space exploration. The UN (1958) recognized the need to coordinate space activities of states, which entails the need to develop an international mechanism for cooperation between countries and the use of various organizational legal forms of coordination in this area for peaceful purposes only (Hobe, 2007:442). The legal regulation of the activities of states arising in connection with space regulation promotes the peaceful use of outer space for the benefit of all states, noted in a resolution of the UN (1961) (Ribbelink,2016:64). A series of UN General Assembly resolutions, particularly the Declaration on International Cooperation in the Exploration and Use of Outer space for the interest of all states further materialize the principle of international space cooperation. The Charter of the United Nations, the most important legal instrument of international

law, is also the most important international treaty for the purpose of maintaining the international cooperation of states. The UN Charter declares the principle of peace to be one of the key principles in international relations, and states that the most fundamental purpose of the United Nations is to maintain international peace and security.

So, the goal of many international organizations was to maintain peace and cooperation among states. Creation of both organizations: European Launcher Development Organization (ELDO) and European Space Research Organization (ESRO) were directed to the practical use of technologies for scientific purposes. The goal of ESA (1975) was to maintain scientific cooperation among member states (Massie, 1986:237). ESA cooperated not only with such traditional space powers as the United States of America, Russian Federation, and Japan, but also with new space countries, as well as with developing countries. It develops and realizes jointly with new space countries and with developing countries projects that are of mutual interest, helps them to develop space activity. ESA closely cooperates with some other international organizations in Europe, especially with European Union, whose space activity becomes more and more active. The important forum of ESA is the United Nations Committee on the Peaceful Uses of Outer Space, where ESA has the status of observer. European Center for Space Law (ECSL) was established in 1989 in assistance to progressive development of the international space law. It is founded on the basis of a Charter. It is necessary to note among international organizations whose goal was development of international cooperation of states in the area of space exploration, specialized UN agencies: United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; International Maritime Organization; World Meteorological Organization.

The benefits of space and space technology are well-known. Participation in a space mission or national satellite launching can be a great source of pride to a country struggling with many problems of development. In modern times, the states, relying on the space branch potential created for decades, must strive to efficiently use its achievements in the process of solution of urgent problems of the XXI century. So, the priority now is to maximally develop technological potency of the humankind to explore the outer space and to search resources useful for us. One of the recipes for success in it is integrating efforts of the state and the society based on growing in the whole world activity of private organizations

in the direction of the outer space study and exploration. New opportunities for attracting investments and capital into the cosmic sphere have sprung up.

Currently, cooperation between countries already actively working in space is increasing, and cooperation between developed and developing countries is growing. Therefore, it is important that the international community relies upon the best achievements of the space powers and takes certain steps to further strengthen the mechanisms of international cooperation in the space sector. It's also important that new opportunities open up to attract private and corporate investment and capital in the space industry, the introduction of the latest technological solutions in the space sector. Leading space powers today are increasing investment in the space industry. In addition to expanding the composition of the space club, commercialization of such areas of space activity as satellite communications and navigation, Earth exploration, introduction of new system and technical solutions and integration of various in their end use programs has become another cornerstone of the modern development of the space industry. On the whole, the following stable processes are seen in the cosmic sphere: widening of the circle of countries carrying on scientific research projects in the industry of space services, cooperation of states in issues of outer space exploration, which requires the improvement of its legal mechanism.

Conclusion

Since 1957, the space activities of states and the number of space powers have been growing steadily. The most remarkable achievement in the early years of the space age is that countries collaborated to preserve the outer space for peaceful uses. The customary international law demands that all states behave in such a way as not to do harm to the environment outside jurisdiction of any state (Mirmina, 2005:158). It was always important that all states comply with the basic principles of international space law when carrying out activities in outer space. These principles act as a criterion for the validity of all special norms of international space law. Currently, outer space should also be governed by the principle of peaceful exploration and use. This principle is declared in the texts of outer space law.

Analysis of modern tendencies of development of the outer space activity witnesses that leading countries of the world put out considerable effort to increase their space potential. (Gerardine, 2007:164). The United Nations has promoted and

facilitated International cooperation in the exploration of outer space.

For joint activity in space, the states unite their efforts in the framework of international organizations. The activity of space organizations whose goal was development of international cooperation between states in the area of space research is a confirmation of an attempt to create international space organizations controlling issues related to the space sphere. The objective need for joint actions of various states in the study of the Universe and the solution of global scientific problems are one of the main prerequisites for modern international cooperation in outer space. The scales of research in the area of outer space exploration have increased. Space and space technology have become useful tools, not just of the select few, but of many countries, used to improve the living standards. Satellite communications technology now represents a basic elements of a country's economic infrastructure. Achievements in different spheres have resulted in widening of international cooperation. Space science has also been conducted on the basis of extensive cooperation and sharing of data. Scientific research has always had a strong element of international cooperation and exchange and this has been even more true for space research than for other fields.

Outer space is an important arena for international cooperation of states. Space cooperation is a very effective way of the confidence-building, because it can reduce mutual suspicion, increase mutual trust and achieve mutual benefits. Nowadays, the international integration in the space sector and the participation of an increasing number of states in it have become sustainable global trends. The development of space activities can not only bring greater authority and pride to a state but also stimulate the rapid development of technology, and produce great practical value in the economy and society. A huge market related to the space. Space activity is a perspective sphere of activity, making significant investment to economies of different countries and regions.

International space cooperation can promote national scientific, technological, economic and even political interests. Participation in a multilateral space project increases the diplomatic influence of participating states upon each other. The scientific and practical interest in studying issues related to space activities of countries is explained by the ongoing evolution of space activities: from solving purely research problems to the wider economic use of space technology, creating an international market for the sale and purchase of space technology and services.

The peaceful use of outer space is complicated by the physical realities associated with the space environment and the legal status of space as a global resource (Hitchens, 2018:3). Changing opportunities and challenges resulting from globalization also contribute to rising aspirations and heightened competition between global role players. More and more countries are developing space programs and technologies.

Currently, the human's space activities have brought a serious of new legal issues to International Law. Moreover the Law of Outer space is growing

further by following each important break-through of human's space activities. International law is in a process of change with serious confrontations in all fields dividing the international community (Williams, 1987:142).

The Law of Outer Space is a new branch of existing International Law. In this regard, there are still a lot of unsolved problems with space activities of mankind, and there will be many new legal issues which will be occurred in the future. It is no doubt that the Space Law has a large space of development with broad prospects.

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THE PROBLEMS OF PROTECTING THE RIGHTS OF HEIRS OF INTELLECTUAL RIGHTS IN COURT

This article is devoted to the analysis of problems arising in the process of judicial protection of intellectual property rights of heirs. The article, on the basis of doctrinal and legal sources, confirms the absence of the right for the heirs of the author to demand moral compensation in case there is a limit to the work of the author or the artisans, which is one of the practices to protect the judiciary.

In addition, the authors determined that in the presence of a judicial dispute concerning the privacy rights of a particular individual, this fact could be verified. by any evidence, including an alienation agreement, and the presence of the corresponding state registration. Also, during the preparation of this article, the authors have made a decision that status of the heir of exclusive rights is determined by the conceptual difference in the rights included in the estate, that is, property rights or non-property, and also directly depends on the limits of rights and duties of the testator, which determines the methods used judicial protection. At the same time, the study made it possible for us to realize that, despite the presence in the Republic of Kazakhstan of a number of legislative provisions regulating the issue the scope on the rights of each holder of exclusive rights to judicial protection, it remains an urgent problem.

Key words: protection, court, author, intellectual property, exclusive right.

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Сотта зияткерлік құқық мұрагерлерінің құқықтарын қорғау мәселелері

Бұл мақала мұрагерлердің меншіктік құқығын сот процесінде қорғау мәселелерінің сараптамасына арналған. Мақалада доктриналды және құқықтық қайнар көздер негізінде автор мұрагерлерінің автордың немесе туынды орындаушысының жеке меншіктік емес құқықтарының бұзылуы кезіндегі моральдық өтемақы талап ету құқығының соттық қорғау тәсілдерінің бір түрі ретінде жоқтығы расталады.

Бұдан басқа, авторлар нақты адамға айрықша құқықтың тиесілігі туралы сот дауы болған кезде, бұл факт кез келген дәлелдемелермен, оның ішінде иеліктен шығару шартымен және тиісті мемлекеттік тіркеудің болуымен расталуы мүмкін. Сондай-ақ, осы бапты дайындау кезінде авторлар айрықша құқықтардың мұрагері мәртебесі мұрагерлік массаға кіретін құқықтардың, яғни мүліктік құқықтардың немесе мүліктік емес құқықтардың тұжырымдамалық айырмашылығымен анықталады, сондай-ақ мұра қалдырушының құқықтары мен міндеттерінің көлеміне тікелей байланысты болады деген қорытындыға келді, бұл сот қорғауының пайдаланылатын тәсілдерін айқындайды. Сонымен қатар, жүргізілген зерттеу Қазақстан Республикасында сот қорғауына айрықша құқықтардың әрбір иесінің құқықтарының ауқымы туралы мәселені реттейтін бірқатар заңнамалық ережелердің болуына қарамастан, өзекті мәселе болып қалатынын түсінуге мүмкіндік берді.

Түйін сөздер: қорғаныс, сот, автор, зияткерлік меншік, айрықша құқық.

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