International Center for Space Law of Ukrainian National Academy of Sciences as a New Form of Education, Research and Consulting Connection

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This report is a presentation of the Kyiv-based International Center for Space Law of Ukrainian National Academy of Sciences (ICSL), one of the co-organizers of this forum. Why the Center is **international**? The idea to create ICSL was generated by the National Space Agency of Ukraine and Russian Aerospace Agency, two principal state institutions in the area of space activities, and was supported by Academies of Sciences of both countries. As a result, relevant 4-lateral agreement was signed.

What was a motivation for the Center creation? In order to clarify preconditions for the Center creation there is a need for retrospective analysis in two aspects – national and international.

International aspect: As it has been already noted, after the collapse of the Soviet Union the soviet space infrastructure is under the jurisdiction of different states. A plenty of legal issues were raised between Ukraine and Russia, including those related to distribution of common property and intellectual property rights on space objects. New types of integration have appeared: new independent states and their entities take part in space projects and programs. Hence, new legal problems require adequate solutions.

National aspect: There is a clear trend for commercialization and ever growing number of non-state entities in the space area. It was a clear need for proper state control for their activities to prevent chaotic developments of the process and to protect interest of the state in terms of its liability for space activities of entities under its jurisdiction. Therefore, a need to develop space law was evident. As well as for specialists who are able to apply this law. Where one can find them? There were no such specialists in new independent states (besides Moscow), as well as schools for their preparation. All these problems have provoked establishment of a center which would be able to provide integrated approach to the area. Such an institution had to combine both – educational and academic problems of space law with resolution of practical issues in the area. These factors contributed into creation of the International Center for Space Law. Kyiv was chosen a site for the center despite the fact that Ukraine had neither deep traditions, nor prepared specialists in the area. Therefore, high reputation of the Volodymyr Koretskyi Institute for State and Law of Ukrainian National Academy of Sciences was crucial for such decision. The Center was created and existed for three as a structure attached to the Institute. Academician Iurii Shemshuchenko, director of the Institute, has also became ICSL Director.

The following ICSL goals were prioritized:

- to assist in developing of space law academic school in Ukraine and Russian Federation;
- to resolve fundamental and applied tasks of the development and realization of the CIS member-states national space law in order to increase space activities effectiveness;
- to harmonize the national space law with the international space law;
- to strengthen the cooperation with international organizations dealing with research and application of the space law;
- to support international legal aspects of commercial space projects realization;
- to give the legal support for Ukrainian-Russian cooperation programs in the field of exploration and peaceful uses of outer space; and
- to disseminate knowledge on space activities and space law.

ICSL's organizational structure

The ICSL activities are of scientific and consulting nature. It does not have stable budget funding. Therefore its own activities (in the area of research and education; legislation drafting; information and analysis; consulting; and publishing) serve as its material and financial basis.

The sectoral approach is applied for ICSL activities. Six sectors are available:

- Research and Education;
- Legislation Drafting;
- Legal Examinations;
- Publishing Projects;
- Information and Analysis; and
- International Cooperation

Staff of the International Center for Space Law consists of 15 specialists.

Specialists of other profiles are broadly involved for particular types of activities.

The Center's activities have resulted in a substantial scientific and practical potential.

Sector of Research and Education

The ICSL prepares high-level specialists in space law (lack of them was a serious problem). They have three-year program for Candidate of Sciences or Doctor of Sciences degree. A number of candidate dissertations have been prepared and defended within the Center. Though all of them are focused on space law issues their scientific specialties encompass international law (*Legal regulation of international*

space projects; Legal regulation of the world market of space services and technologies), theory of the state and law (*Space law of Ukraine: Its essence and composition*), environmental law (*Legal protection of the environment in the process of space activities*), and civil law (*Legal aspects of insurance in the area of space law*). To the moment, a number of dissertations in under preparation. Their topics include: *International legal regulation of the usage of nuclear sources of energy in the outer space, Legal regulation of material rights of international nature concerning space property, International space problems of space debris*, etc.

Educational program on space law is realized through the Kyiv University of Law of Ukrainian National Academy of Sciences.

Legislation Drafting Sector

Legislation drafting is among the priorities of ICSL. It implies direct involvement in elaboration of the drafts of legal documents in the space area, as well as examination of such drafts prepared by other institutions.

Besides, laws, presidential decrees, and decisions of the Government this area is also regulated by the so-called "rules of space activities" (their adoption and functioning is covered by the Law of Ukraine *On Space Activities*). The Center is deeply involved in the their preparation. In particular, it includes:

- *Rules for preparation and coordination of foreign contracts in the area of space activities;*
- *Protection of intellectual property rights in the space area;*
- *Procedure and rules for compulsory insurance in space activities;*
- *Scientific and scientific-and-technical examination of projects and research and design works. General requirements;*
- *Disposal of space hardware. General requirements;*
- *Limitations for space debris in the process of space hardware exploitation. General requirements;*
- *Elaboration, manufacturing and exploitation of rocket-and-space hardware;*
- *Organization, performance and support of space launches and flights;*
- *Survey and control for security of space launches and flights and exploitation of space hardware;*
- *Rescue operations in the space area;*
- *Investigation of accidents and extraordinary situations with rockets-vehicles and space apparatuses;*
- *Transportation and storage of rocket-and-space hardware.*

Sector of Legal Examinations

Legal examinations are among the most responsible areas of ICSL's activities. From the very beginning it has become a test for qualifications of the ICSl staff, its ability to combine academic knowledge with demands of the practical area. Primarily, such demands are posed by the National Space Agency of Ukraine and space industry.

The following factors complicate legal examination activities in the space area:

-- Unlikely to any other area, a complex analysis is needed for evaluation of most of the space law cases. It requires interdisciplinary approach because methodology of space law involves methodologies of many other areas such as theory of state and law, international public law and international private law, constitutional, administrative, financial, environmental, economic, civil law and others. Moreover, in many cases there is a need not only in legal analysis but also in analysis of economic and technological aspects;

-- I would also dare to state that no other area applies comparative methods so broadly as space law does so due to high level of integration in this area. In the process of examinations the ICSL has dealt not only with Ukrainian legislation but also with legislations of Russia, Kazakhstan, USA, Brazil, Egypt, Italy, China, Turkey and many other countries;

-- The process of legal examination is seriously complicated by the secrecy regime, as well as by considerable number of parties interested in examination results. As a rule, each of them has only a portion of relevant information;

-- As a rule, the institution involved in such examination is required not only to evaluate a situation, but also to provide consultations how to apply those results in a practice, i.e. consulting activities.

The ICSL has carried out about 50 examinations. In particular, they covered situations related to international space projects GlobalStar, Cyclone, Sea Launch, Vega, Lybid, Dnipro, etc.

Publication Projects

The ICSL has published 5 issues of *Collection Space Law of Ukraine* in Ukrainian. It contains international legal documents (multilateral and bilateral), as well Ukrainian national documents in the area of space law. This collection is of great use for national space industry, researches and decision-makers in this area.

The scientific commentary of the Law of Ukraine *On Space Activities* is prepared for publication.

Multi-volume thematic collection in Russian and English *National Space Legislation of the World* was launched in 1999. To the moment, five volumes (six books) of seven planned are published.

Center's researches also publish monographs, textbooks, manuals or their chapters, articles in domestic, foreign and international recognized academic periodicals on space law topics.

International Cooperation

The ICSL develops and keep academic contacts with international organizations and foreign institutions in the area.

Annually information on the Center's activities is considered by the Legal Subcommittee of United Nations Committee of the Peaceful Uses of Outer Space in Vienna, Austria.

Since 2003, the ICSL is a collective member of the International Institute of Space Law.

The Center has stable partner contacts with Federal Space Agency (Moscow), UNIDROIT (Rome), International Astronautical Federation and its International Institute of Space Law (Paris), European Centre of Space Law (France), Brazilian Society of Aerospace Law, Brazilian National Institute of Space Research, Institute of Air and Space Law of the university of Cologne (Germany), Institute of International Spaces of the University of Western Brittany (Brest, France), Office of Policy and Law of National Space Administration of China and some others.

Serhiy Nehoda, a former Center's researcher, now works at the United Nations Office for Outer Space Affairs (Vienna, Austria).

Prospects

The Ukrainian subjects of space activities (and, to the much lesser extent, Russian ones) were consumers of the ICSL services. However, the Center's potential allows to extent the geographical area of its activities and encompass other countries, primarily of post-soviet area. We have had negotiations with relevant institutions of the Republic of Kazakhstan on involvement of their specialists into the Center's activities. In particular, into its Supervisory Board.

In terms of intensive development of international integration processes in the area of space activities, the ICSL offers both – possibilities for training of foreign specialists at its basis and possibilities for ICSL specialists for academic exchange, internships and training abroad.

Despite the multifaceted character of ICSL activities, to provide legal support of practical need of space sector is its key goal. This area also has a potential for further growth. In particular, the idea to create a mediation center for conflicts settlement on the basis of the Center is stipulated. Such center would involve also top space law specialists from other countries and would settle conflicts between the subjects of space activities (including those related to international space projects and programs) in CIS and Central and Eastern Europe. Such resolution at pretrial stage would allow to conflicting parties to reach compromises and avoid essential financial losses. The

ICSL has already prepared some theoretical background in this issue. However, realization of this idea will require substantial organizational measures.

For a long time Kazakhstan, Russia, Ukraine as well as number of other states – members of the UN Committee on Outer Space consistently support the idea to codify international space law. However, this idea is still on the level of discussion only. It would be desirable if the countries supporting this idea would be able to combine their efforts on the level of space law specialists for the elaboration of preliminary concept of such works. It would be a weighty contribution for start of practical implementation of the idea. In this situation the ICSL inviting representatives of other states and international organizations would serve as a methodology center for such work.

Also there are other ideas how to use more effectively the Center potential for advancement of space law ideas in the region of Central and Eastern Europe, Central Asia, and Caucasus.