INTERNATIONAL CENTER for SPACE LAW, Kyiv

Presentation

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UN/Ukraine Workshop

"Status, Application and Progressive Development of International and National Space Law"

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ICSL establishing

Quadripartite Agreement on establishing of the International Center for Space Law was signed in June 1998 by:

- National Space Agency of Ukraine,
- National Academy of Sciences of Ukraine,
- Russian Aerospace Agency,
- Russian Academy of Sciences.

The Center is based in Kyiv, Ukraine.

BACKGROUND

- Luck of national space legislation neither in Ukraine, nor in Russia (space law in the Soviet Union was developed only at All-Union (federal) level)
- Need for highly-qualified specialists in space law. Legal difficulties related to space infrastructure of the former Soviet Union. The infrastructure was created mainly by Russian and Ukrainian enterprises on the very close integration basis and became under jurisdiction of different countries. Other reasons: intellectual property rights on space objects; commercialization tendencies and appearance of many non-governmental subjects in space projects and programs as independent actors, including international ones; and necessity to provide state control over their activity.
- Legal experts specialized in space law and educational institutions for their preparation were unavailable in the new independent states (except Moscow).

The main purposes of ICSL activities

- Development of research on space law in Ukraine and the Russian Federation;
- Education in the field of space law;
- Elaboration and implementation of national space law and harmonization of the CIS countries' space legislation with international space law;
- Strengthening of cooperation with international organizations involved in legal research and practical application of space law;
- Development of international legal provision for commercial space projects implementation;
- Legal support for cooperation programs between Ukraine and the Russian Federation in the field of exploration and peaceful use of outer space;
- Popularization of space law.

Organizational structure of the ICSL

- Initially the ICSL has functioned as a division of the Institute for State and Law of the National Academy of Sciences of Ukraine. Since April, 2001 it is an independent institution.
- The ICSL combines the status of both -- research institution and consulting body.
- Absence of budgetary financing. Own activities in the field of space law (educational, research, law-making, informational, analytical, consulting, and publishing) constitute financial basis of the ICSL. No state budget funds involved.
- Sectoral approach for the ICSL structure, i.e. it consists of five sectors covering research and education; law drafting; legal examinations; publishing activities; informational and analytical work; and international cooperation.
- ICSL staff consists of 15 persons.

Sector of research and educational activities

One of the principal targets of ICSL's activities is to prepare high-level specialists on space law. The Center trains such specialists on the basis of post-graduate study and work leading to doctoral degree.

A number of theses on different branches of researches of space law problems (international law, state and law theory, environmental law, civil law, etc.) were prepared and defended on the basis of the Center.

Every two years the ICSL approves principal research topics.

Educational Program on Space Law is implemented through Kyiv University of Law (affiliated to National Academy of Sciences of Ukraine).

Law Drafting sector

From the very beginning drafting of law and regulation was and remains one of the priority directions of the ICSL's work. It consists of direct participation in drafting of acts, standards, norms and others legal instruments in the field of space activity as well as in examination of legal acts elaborated by other organizations.

During 8 years of the ICSL's activity its specialists were actively involved in elaboration of so-called "rules of space activity" (such elaboration is prescribed by the Law of Ukraine "On Space Activity" especially:

- "Rules for preparation and concordance of foreign economic contracts in the field of space activity";
- "Protection of intellectual property rights in space industry" and "Standard principles for valuation of intellectual property objects at enterprises of Ukrainian space industry".
- "Order and rules of obligatory insurance while carrying out space activity" and Typical agreements on some kinds of obligatory insurance while carrying out space activity";
- "Operation of spacecrafts";
- "Making of scientific and scientific-and-technical examination of projects, scientific-and-research and research-and-design works. General provisions and requirements";
- "Utilization of space-system engineering. General requirements";
- "Restriction of space debris of near-Earth space environment while operating space-system engineering. General requirements";
- "Design, production and operation of rocket-space engineering";
- "Organization, fulfillment and provision of space launches and flights";
- "Supervision and control over safety of space launches, flights and operation of space-system engineering";
- "Carrying out of prospective works and wrecking in space industry";
- "Carrying out of official investigation of incidents and emergencies with launch vehicles and spacecrafts";
- "Transportation and storage of rocket-space engineering".

Sector of legal examinations

- Legal expertise is one of the most responsible directions of the ICSL activities which from the very beginning became a qualification standard of its employees and their ability to combine academic knowledge with specific needs of practice.

Complexity of legal examinations in the field of space law is determined by the following factors:

- like not in any other field, while examinating one of another space concerned case one requires complex analysis of the situation based on interdisciplinary knowledge in different branches of law, taking into account that space law being a complex legal matter based on combination of methodology of many legal sciences: state and law theory, international public and international private law, constitutional law, administrative law, financial law, environmental law, civil law, commercial law and others. Moreover, quite often a situation subjected to examination, besides legal analyses, requires penetration into economic, technical, technological and some other aspects;
- Modern space law more than any other field requires extremely broad application of comparative legal methods. It is caused mainly by intensive international space integration. While carrying out legal examinations of different issues the ICSL's specialists apply legal systems of Ukraine, as well as of the Russian Federation, Kazakhstan, the United States of America, Brazil, Egypt, Italy, China, Turkey and other countries;
- Procedure of secrecy inhered to materials which are important for examinations and a great number of different subjects interested in the results of examinations which possess only part of corresponding information complicate the expert process considerably;
- As a rule, customers require from executors of legal examinations in the field of space law not only legal treatment of a situation but also recommendations concerning practical application of obtained results, proposals as to future steps, i.e. consulting.

Sector of legal examinations

- The ICSL has carried out fifty legal assessments of different cases related to implementation of international space projects like “GlobalStar”, “Cyclone”, “Sea Launch”, “Vega” and “Lybid’”.

Publishing activities

During 8 years of its activities the ICSL has published:

- four editions of collection *Space law of Ukraine* (in Ukrainian) which include both international law documents (multilateral and bilateral) and acts of national legislation of Ukraine on space law. This collection becomes the manual for enterprises of space industry, scientists who deal with space law, and state agencies related to this area.
- The Commentary to the Law of Ukraine "On Space Activity"
- Thematic Collection *The National Space Legislation in the World* in five volumes
- Monographs, manuals, and scientific articles.

International cooperation

- The ICSL supports and develops relations with international organizations and foreign institutions on space law:
- Legal subcommittee of the Committee on the Peaceful Use of Outer Space (Vienna, Austria) and UN Office for Outer Space
- the International Institute for Space Law of the International Astronautic Federation (Paris, France),
- Roskosmos (Moscow),
- UNIDROIT (Rome, Italia),
- European Center for Space Law (France),
- Brazilian Association for Aerospace Law and Brazilian National Institute for Space Research,
- German Aerospace Center and Institute for Air and Space Law of the University of Cologne (Germany),
- Institute for International Open Spaces of the University of West Bretagne (Brest, France),
- Department of Policy and Law of the National Space Administration of China,
- and others.

Prospective ICSL's activities

- The ICSL plans to continue further development and diversification of its activities.

- ICSL's researches going to focus on regional aspects of cooperation in the space field. We have priority in this area. The ICSL is the only institution having so rich experience of cooperation with the CIS countries in the space area.

Prospective ICSL's activities

- Until now subjects of space activity of Ukraine (partly of Russia) were main customer for works and services of the ICSL. However, the Center's potential allows to broaden its activities to other countries. Negotiations on deeper involvement of the ICSL are held with the appropriate structures of the Republic of Kazakhstan. In particular, the possibility to involve representatives of the Republic of Kazakhstan into the Supervisory Board of the ICSL is considered.
- We are ready to spread the ICSL's activity also on other countries, primarily on countries of the CIS and Central and Eastern Europe.

Prospective ICSL's activities

- Taking into consideration rapid development of international integration process in the space are, the ICSL considers, on the one hand, possibilities for scientific exchanges, studying of the ICSL's postgraduate students, researches, and experts at universities of leading world centers for space law and, on the other hand, possibilities for training of foreign students and specialists at the basis of the Center.

Prospective ICSL's activities : idea for International Space Law Codification

- During several years, Ukraine support the idea of international space law codification through working out and adopting of universal Convention on Space Law. Every year this idea finds more and more supporter. Taking into account that necessity and expediency of exercising codification works under the aegis of Committee on Outer Space nowadays are upheld by the countries of Central and Eastern Europe, we think that the International Center for Space Law is able to exercise methodical management of preliminary works on forming the conception of appropriate Convention and also on working out its structure. We would like to involve into this work all interested experts on space law from other member-states of the Committee on Outer Space and from interested international organizations.
- We invite experts from countries of the Central and Eastern Europe and other interested parties to take part in international establishing body for working out the conception of further development of international space law.

Prospective ICSL's activities : idea for creation of Mediation Center

- Despite of diversity of the ICSL's activity the dominating direction is the ICSL's works for providing practical legal needs of space industry. In this regard there are many prospective possibilities. In particular, taking into account the originality of the Center in the CIS countries and the Central and Eastern Europe, it would be perspective to create the Mediation Center for Settlement (Reconciliation) of Conflicts that arise during performance of space activity between its subjects and also which arise while exercising international space projects and programs. And parts of such conflicts are the subjects of space activity from states of the CIS, Central and Eastern Europe. Such Centers are successfully operating in many regions of the World, having proved their vitality and possibility to settle the conflicts at the earliest (pre-trial) stage. Also it allows for parties of the conflict to achieve understanding and avoid great financial expenditures. The ICSL has some theoretical working in appropriate sphere but some important organizational steps are necessary to take for transfer from ideas to their implementation.

Short conclusions

The ICSL's experience convinces that the integration of several conditions is important for providing vitality of such institutions:

1) social demand from the particular area, the interests of practice in functioning of appropriate institution;

2) such interest should not be of conjuncture or temporary character, but stable interest with long term aims;

3) activity of appropriate research centers should be provided with state budget financing, or, as for the ICSL, should be based on the conception of financing source diversification, being supported by some main financing source (for ICSL the main customer is the National Space Agency of Ukraine);

4) qualifying requirements to the personnel must be not only high but specific. They should not be oriented only to educational and research work. Personnel selection should be based on optimal combination of substantial theoretical knowledge with skills to implement them in practical situations.

Just observance of such requirements guarantees success during activity of International Center for Space Law in Kyiv.