

# IISL-ECSL SYMPOSIUM ON CAPACITY BUILDING IN SPACE LAW

## UNCOPUOS, LEGAL SUBCOMMITTEE

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### Session 1: Teaching and Education

Networking and federative initiatives (ECSL, IISL Moot Court...)

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#### 1. Introduction

The question of teaching space law is actually sparking renewed interest, with its underlying issues of knowing precisely what teaching is involved and how defining space law. There is no doubt that major changes have taken place since the early days of space law teaching. Nowadays the teaching of space law has had to deal with various developments: the growing complexity of the sources of space law, both international and national, and, as a consequence, the difficulties of an access to documentation; the multidisciplinary character of space law, which includes the rules, both of private and public character, related to access to and use of outer space as well as the means for organizing and executing space-related activities on Earth; further, the steady enlargement of the space user community, as developers users, operators, and their needs; finally, the exchange of scientific and technical information pertaining to the fields of space research and technology and their space applications.

#### 2. The Starting Point: Space Law as a Special Branch of International law

From the educational point of view, there are several definitions of Space Law: they can vary extensively depending on each academic course (air and space law, international space law, telecommunication law, space law *tout court*).

In general, we can say that Space Law has acquired its scientific autonomy. However, this autonomy seems not duly reflected in the universities curricula (for the multicoloured world of Space Law as a legal discipline see “Space Law Teaching in Europe” published by the European Centre for Space Law, ECSL and the “Directory of Space Law educational opportunities” prepared by the Office for Outer Space Affairs of the United Nations, OOSA).

Moreover, the teaching of Space Law is not broadly extended in Europe and worldwide. This is a clear sign that this discipline has not yet assumed a strong and well defined scientific autonomy. With few exceptions, it is generally understood that Space Law is a part of broader legal sectors.

Nevertheless, Space Law is to be considered as a self-sufficient juridical sector, with special features, principles and norms. Space law began as a special branch of international law identified by its content, which deals with a specific and coherent set of activities of States and other subjects, including private

subjects, in outer space or related to outer space activities. Article III of the OST Treaty establishes that: “International Law, including the Charter of the United Nations, applies to outer space and celestial bodies”. It still constitutes an homogeneous field, with peculiarities unknown to other fields of International Law.

Space law is also a relatively new branch of International Law, grown from the necessity of creating new norms to govern the expanding uses of outer space science and technology in improving functions and providing new services on the Earth. Thus, the United Nations become the focal point for international co-operation in outer space and for the development of international space law.

### **3. Space law in the Process of Hybridization: From International Space Law to Multidisciplinary Space Law**

International space law has undergone a deep evolution since it developed until the end of the eighties. Space activities and globalisation underlined a profoundly changed legal framework. As a consequence, Space law has known a process of hybridization, becoming more and more multidisciplinary.

On the one side, it was based from the beginning upon scientific and technical concepts and processes. Thus, some basic scientific knowledge is necessary to better understand the ratio of space law norms.

On the other hand, from a certain point onward space law has lost its predominant international character, becoming a body of rules belonging to different legal systems: no more exclusively international law, but also national law, both public and private.

Not to speak of the emergency of regional bodies of space law, as European Union law. The on-going involvement of the EU in space matters, and the rise of a regulatory European capacity, though limited until now, has affected the prospects of space law. Thus, space law is enriched by new entries from EC law and cannot be defined as solely international space law.

Another important part of space law is national space legislation. It is impossible to define and teach space law without including the norms of domestic law that govern the space activities of States and private entities. Most of them are the direct consequence of the treaties that the States parties to them have accepted and that may require implementing and complementing national legislation.

Presently several States have enacted national space legislation according to different models and with different contents, though often inspired by common principles. Consequently, Space law has been enriched and completed by new inputs and paths.

At the same time, the development of space activities has reinforced also a private law side of space law, not only with the internal legal systems but also at the international and European level.

In the end, we can say that space law, without any adjective, has grown as a composite and specialized body of law, both of international and national nature, which deals with space activities at large. Its evolution shows that any teacher must be ready to consider the interactions among different legal systems within a multidisciplinary approach and methodology.

#### **4. Federative initiatives are needed to spread the knowledge and teaching of Space Law.**

As a consequence of the broad and multidisciplinary character of Space Law teaching and education should be realized not only through national means and instruments, but also, and perhaps mainly, through federative initiatives.

The existing examples evidence that the networking or simply interaction between national and regional centres, the involvement of legal practitioners, moot court competitions and the provisions of databases through internet are essential tools for the diffusion and improvement of space law teaching.

The two organizations that jointly organized this symposium, namely the International Institute of Space Law (IISL) and the European Centre for Space Law (ECSL), are good examples of how new methods of teaching space law can be put in place. This is proved by the enthusiasm on the part of the students that followed their initiatives.

The purposes of IISL, founded by the International Astronautical Federation in 1960, and which gathers members from more than 40 countries, include the cooperation with international organizations and national institutions in the field of space law, and the holding of meetings, colloquia and competitions on juridical aspects of space activities.

In 1992, the U.S. members of the IISL invited Georgetown University, George Washington University and the American University to each send two teams to participate in a moot court competition in conjunction with the International Astronautical Congress. In 1993, the European Regional Round was created and, after the death of Judge Manfred Lachs, the competition was renamed in his honour and memory. In 2000, the Asia-Pacific Regional Round was created and, in 2004, over 35 law schools now participate in the Manfred Lachs Space Law Moot Court Competition. I notice, however, that there is a need to enhance this picture making it possible, by appropriate means, the participation of the African region, on the one hand, and of Latin America, on the other hand.

By participating in the Lachs Moot, students of each team gain valuable experience in international mooting while taking a journey through debating and analysing important issues of space law. Law schools in each region register for the Regional Rounds and submit written memorials on the moot problem. Regional Rounds are held between, with the Asia-Pacific Regional Round usually held in Sydney, Australia, the North America Regional Round in Washington, D.C., and the European Regional Round hosted in various European cities.

The winner of each region then gather for the world finals, held in conjunction with the International Astronautical Congress and the IISL Colloquium on the Law of Outer Space. The world final of the Lachs Moot has the unique tradition of being judged by three sitting members of the International Court of Justice.

It is obvious indeed that through the Moot Competition has contributed substantially to the awareness and diffusion of space law teaching around the world.

On its turn, the European Centre for Space Law, set up in Paris, France, in May 1989, aims at promoting the knowledge of and the interest in space law and supports research and educational activities. Its objective is to bring together people of different extraction involved in space law, through a flexible instrument, open to the various communities, law faculties, research institutes, scientists, company lawyers, practitioners and students. In fact, ECSL relies on a network of National Points of Contact (NPOCs), which have their own activities and structure, adhere to the ECSL Charter and principles and act at national level to further implement its goals.

The ECSL educational programmes and services offered to the space law community include the European Round of the Manfred Lachs Moot Court Competition, the Space Law and Policy Summer Course, the Practitioner's Forum and the Regional Workshops.

Concerning the organization of the European Regional Round of the Manfred Lachs Space Law Moot Court Competition, it is worth to mention the recommendations on "How to Prepare a Moot Court Competition" prepared by two members of the ECSL Board for the use of European students that do not have experience in mooting and are not English speaking for their native tongue.

## **5. ECSL Summer Course on Space Law and Policy**

But one of ECSL's most successful activities is the Summer Course on Space Law and Policy. This is organised with the support of a host university (from Messina, Italy in 1991 to Nordwijk, The Netherlands in 2006, through France, Spain, United Kingdom, Finland, Switzerland, Germany, Belgium, Austria) the Summer Course has attracted participants from an increasing number of universities.

During the two-week course students attend intensive lectures given by university professors and space professionals concerning the legal framework of space activities. These include a wide selection of legal issues relevant to space applications such as the commercialisation of space activities, telecommunications, remote-sensing, launching states, intellectual property rights. During the course students have the opportunity to meet highly qualified experts, to learn from their experience and to visit space industries.

In the end, the main objective of the Summer Course is to stimulate students' interest in this particular field of law and to provide them with a basic, solid knowledge upon which to build their professional career or carry out further academic research. Lectures are characterised by three main aspects: they provide general knowledge; but after looking at space law basic principles and texts, special fields and actual practice are examined in depth. Students then prepare for mock pleadings (of the Moot Court type) or mock negotiations for an intergovernmental agreement.

The results achieved over more than 16 years show that the networking methodology adopted by ECSL is largely fruitful.

Last but not least, an important objective for ECSL is to disseminate, within Europe, the use and knowledge of documentation on the law of space activities, its teaching and practice. With ESA's support ECSL has set up a space law database called the ECSL Legal Database.

Legal database shall in fact constitute a basic tool for the promotion of space law and its knowledge at worldwide level, open to professionals, practitioners and students coming from different fields.

In conclusion, Mister Chairman, networking teaching and contacts between the various communities, academic or otherwise, should be broadened by all practicable means. The future of space law teaching very much depends on making space law better known and more useful.