

# ASERS

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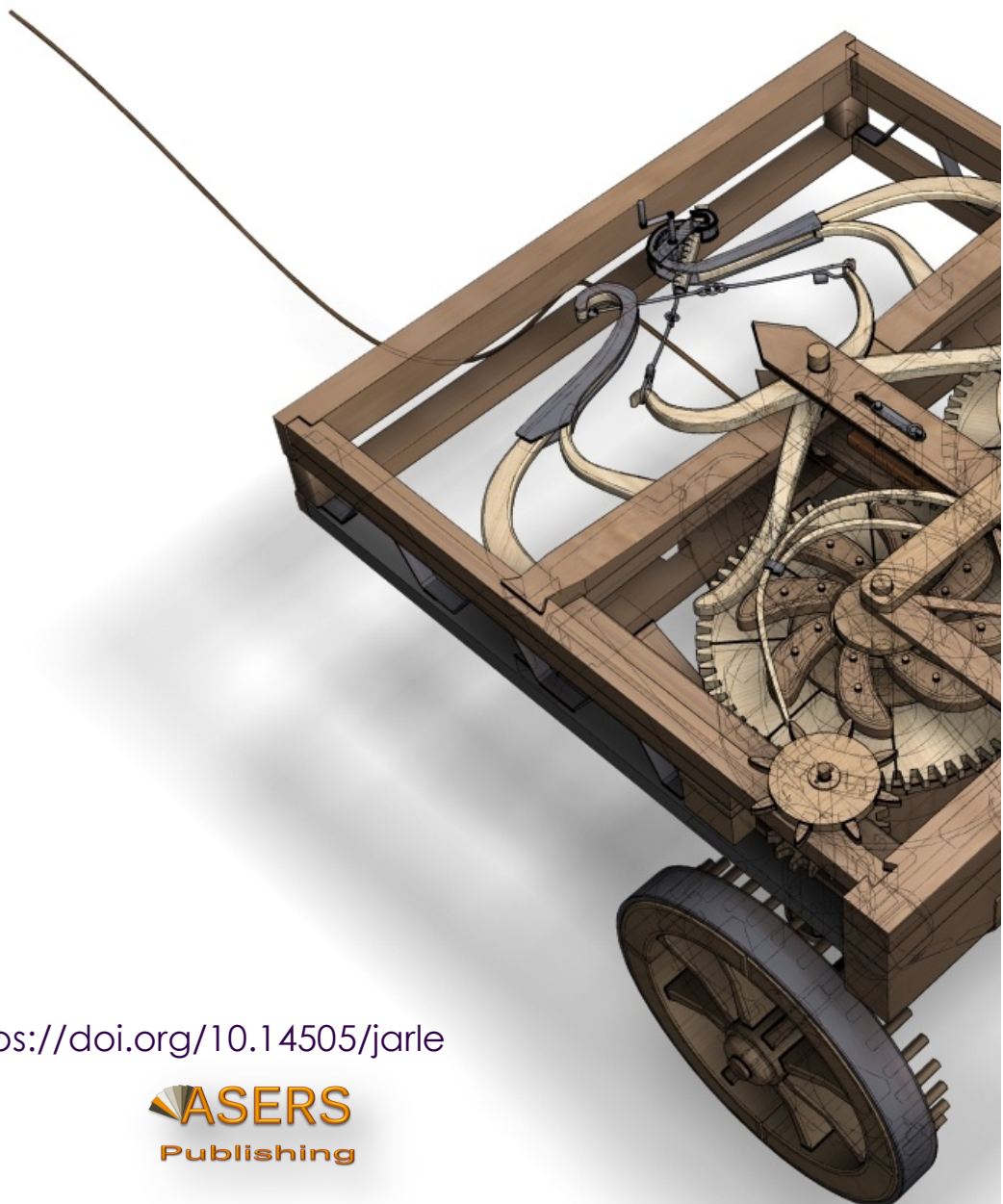
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# Call for Papers

## Volume VII, Issue 8(22), Winter 2016

### Journal of Advanced Research in Law and Economics

*Journal of Advanced Research in Law and Economics* is designed to provide an outlet for theoretical and empirical research on the interface between economics and law. The Journal explores the various understandings that economic approaches shed on legal institutions.

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## Establishment and Development of Outer Space Legislation: Kazakh and Foreign Experience

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### Abstract:

System analysis of base international law acts has been conducted in sphere of space activity, which shows that there is no specified distinct line between air and space areas. Actuality of such research determined by the necessity of upgrading of theoretical concepts, as also norms of modern international space legislation in reference to legal coverage delimitation of air and space areas. This necessity firstly caused by potential threats to national security and high probability of disputable situation appearance between subjects that are in space air relations, in specific for the fact of creation and usage of multiple time using space-air crafts (space-air objects), that can function in air and space areas. In the process of law enforcement subjects of space activity may face



legal challenge application of air or space law while staying relevant aircraft in the airspace or outer space. It is shown that each country regulates space right in accordance with their own objectives of scientific and technological development. It was determined that for the countries of Southeast Asia's space program is a driver of development and structuring of all scientific and technological sectors. It is revealed that she is the greatest interest for South Korea because of the technical possibilities of improving and building space technology not only for their own use, but also on the orders of other countries. It was noted that it was in South Korea set up a sufficiently broad foundation for the integration of innovation in the overall structure of the economy and the use of space technologies will accelerate this growth. At the same time controls the legal field to fully contribute to the adoption of legal acts concerning the establishment of environment for development of the space industry.

**Keywords:** space legislation, delimitation control, infrastructure creation, innovative legal regulation.

**JEL Classification:** K33, H83, N40.

## Introduction

In modern conditions to accelerate scientific and technological progress in the field of space activities appears needs to develop and form new kinds of space relations, which require proper legal regulation. At the same time major changes touches complex space-legal relations connected with the exploration and use of outer space and stellar bodies. In this connection, great importance is the search for new directions and ways to improve the existing solutions of current space legislation issues in order to ensure progress development of international and national space law.

One of the most complex and controversial issues of legal theory and practice of international space law is the legal problem of delimitation of airspace and outer space (Tronchetti 2013). The term 'delimitation' is coming from the Latin word *delimitare*, which means restriction, distinction of borders. On the doctrinal level under the delimitation of air and outer space understand the contractual definition of the boundary between air and space.

## 1. Literature review

We cannot agree with the formation of the used practices in individual countries regarding the delimitation in their national space legislation (Soucek *et al.* 2011).

Since the issue of the delimitation of air and outer space, as rightly mentioned by J.M. Filho (2016), belongs to the field of international relations, requiring international legal regulation (Tronchetti 2013). It is necessary to agree with R.S. Jakhu, J.N. Pelton, Y.O.M Nyampong (2017), who noted that the problem of the delimitation of outer and air spaces should be resolved on the basis of the conventional border, which is indicated in the consent of the countries (Tronchetti 2016). Given that space is recognized as international territory, delimitation of airspace and outer space should be determined exclusively by the norms of international space law (Masson-Zwaan and Crowther 2014), and not the national legislation relating to space activities (Masson-Zwaan and Crowther 2014). Prohibition of self-determination by the countries of the such borders also confirms non-admission by the international community, the provisions of the famous Bogota Declaration since 1976 on the sovereignty of countries in the equatorial areas of the geostationary orbit above their territories (Siemon and Freeland 2010), because it violates the fundamental principles of international space legislation regarding the freedom and openness of the exploration and use of outer space and its non-use.

## 2. The summary of the main research material

Retrospective analysis shows that the issues of delimitation of air and outer space is an actual problem of international space legislation since 1959 - since the creation of the United Nations Committee on the Peaceful Uses of Outer Space (hereinafter - the UN Committee on Space), which was tasked to study the nature of legal problems that may occur during the space exploration (The United Nations and Outer space: Celebrating 50 Years of space Achievements (2009). However, firstly needs to be resolved problem relating to the legal definition, in particular the international legal problem, the concept of 'space' 'the use of outer space and stellar bodies.' according to the French proposal, this is an important issue that in 1966 was included to the agenda of the Legal Subcommittee of the UN Committee on Outer space (Bhatt 2015). From that time until now space delimitation problem is one of the key legal issues to be discussed at the annual meetings of this Subcommittee.

Review of scientific and special literature on this topic and materials of relevant meetings of the Legal Subcommittee of the UN Committee on Space has shown that there is no simple solution regarding the decision of delimitation and legal issues among academic lawyers and experts of international and national space law (Kopal *et al.* 2011). The doctrine of international space law, considers two basic scientific approaches to the problem of international legal delimitation of air and outer space: functional and territorial. Supporters of functional approach indicate lack of need for delimitation of air and outer space, as from a legal point of view, space and air space is considered the only 'overhead' space, which does not require delimitation. Their proposals are the necessity of legal regulation of aviation and space activities. In other words, space-legal problem of 'above ground' which addressed they propose to solve with the help legal delimitation of types of farming: aerospace activities on the criteria based on a functional purpose - an aircraft or spacecraft.

At the same time, supporters of the functional approach also justify the solution of this issue through the definition of such basic terms of international space law as a 'space object' (proposal by France, Belgium) and 'space activities', which is a formal offer of the Czech Republic. At the time, Soviet scientists, academic lawyers of international space law, proposed to solve the researched problem by the definition of 'space flight', regardless of where the boundary between air and space.

At the same time at the meetings of the Legal Subcommittee of the UN Committee on Space opinions were expressed, in particular the EU delegation, the lack of practical need of legal delimitation of airspace and outer space, as well as the legal definition of 'outer space' (Walter *et al.* 2011). A similar legal position on this issue took the delegation of Norway, the Netherlands and Portugal, which are also not in favor of the delimitation of airspace and outer spaces. At present, not consider it necessary to define a boundary between airspace and outer space representatives from Denmark, Saudi Arabia and Turkey, they although in general agree with the importance of the delimitation issue.

Supporters of territorial scientific approach prove the necessity of contractual delimitation of air and outer space, establishing the existence of the legal differences in their legal regimes, requiring the establishment of the territorial boundaries of the principle of the space of freedom, on the one hand, and the principle of state sovereignty over national airspace, on the other (de Oliveira 2015). These are the current legal position of Azerbaijan, Algeria, Australia, Belarus, Bolivia, Kazakhstan, Qatar, Mexico, the Russian Federation, Thailand, Ukraine, South Korea.

Legal airspace regime is based on the recognition of the full and exclusive sovereignty of each State over the airspace above its territory (The International Legal Framework 2004). In other words, the national airspace includes in the scope full and exclusive sovereignty of a particular state, which is a concurrent part of the territory of a state, under its exclusive jurisdiction. The state determines the legal regime of the national airspace in accordance with the norms and principles of international air law.

At the same time, the legal regime for outer space is determined by the norms and principles of international space law. It is based on the international legal principle that the exploration and use of outer space, including the Moon and other stellar bodies shall be carried out for the benefit and in the interests of all countries, regardless of their economic or scientific development, and shall be the province of all mankind. International legal regime for outer space is also determined by the fact that outer space, including the Moon and other stellar bodies, shall be free for exploration and use by all countries without discrimination of any kind on the basis of equality and in accordance with international law, with free access to all areas of stellar bodies. However, a particular feature of the legal regime of outer space is the inability to spread sovereignty of a particular state on him, because Article II of the Outer Space Treaty prohibits the appropriation of outer space and stellar bodies, guaranteeing the principle of freedom of research and use of it.

Legal nature of the investigating legal regimes characterized by the fact that the territory of the national airspace is under the jurisdiction of a particular state, but space is indivisible, international territory, which is not subject to the sovereignty of any state. Consequently, the legal regime of the national airspace of the state is determined by its national air law, and the legal regime of outer space - only international space law.

So, in our opinion, we should accept the legal argument of supporters of the territorial approach on the decision of space-delimitation problem by defining the boundaries between air and space that is primarily will ensure the proper application of the principle of legal certainty. The existence of significant legal differences in the legal regimes of airspace and outer space refers to the necessity of legal prerequisites for their delimitation, which also will contribute to the progress development of international space law (Tarikhi 2015).

Modern development of space technology in the direction of creating reusable aerospace vehicles (aerospace objects) indicates unproductive proposals of supporter of functional approach with respect to the delimitation problem solutions through the definition of 'spacecraft'. Design and manufacture of reusable



aerospace aircraft as 'Buran' (USSR) or the Space Shuttle (USA), capable thanks to its aerodynamic properties to move in air and outer space, as well as the development of new projects (MAX, Hotol etc.) proving the impossibility of a clear delimitation of the above mentioned aircrafts at their purpose, as these devices cannot be surely classified it as aircraft or spacecraft.

It is also important to note that the design and creation of reusable aerospace vehicles proves the feasibility of the definition in international space law appearance of the new term called 'aerospace object', which then requires the introduction of a special legal regime for the registration and operation of 'aerospace objects', institute of responsibility for the caused damage and etc.

At the same time there is no doubt that the definition of conceptual and terminological apparatus in international space law ('space object', 'spacecraft', 'aerospace object', 'space activities') is of great importance to ensure its progressive development, but does not solve delimitation issue, because the issue of the upper limit of the airspace and the lower boundary of outer space remain unresolved.

Features of national legislation on space activities of some countries on the fixing of the special dispositions for the terms for the safe passage of foreign space objects through their national airspace is an additional argument for the need for delimitation of air and outer space. So, from the content of p. 4 Art. 19 of the Law of the Russian Federation 'On space activities' indicates, that the implementation of the corresponding single side flight require prior notification to the competent services of the Russian Federation about the time, place, path, and other flight conditions. However, the condition for the passage of a space object belonging to a foreign person or legal entity, through the airspace of the Republic of Kazakhstan is firstly in need of prior approval from the Ministry of Defence of the Republic of Kazakhstan, the authorized stakeholders in the field of environmental protection, in the field of civil protection (Art. 5, Art. 27 of the Law Kazakhstan 'On space activities'). Consequently, the flight of foreign space objects in the airspace of these countries without a prior notice and agreement will be deemed as a violation of their sovereignty.

It should also be borne in mind that a spacecraft shall apply rules of air and space legislation depending on the area they are located - in the air or in outer space. For example, the Turkish Civil Aviation Code requires that the space objects that are in the air, are regulated as well as aircraft and other aircraft. And in accordance with paragraph 1 of the Federal Air Traffic Code of Germany (A / AC. 105/635 / Add.2), spacecraft, missiles and similar aerial objects regarded as aircraft while in airspace. Despite this, the territory of the movement of a space object (or air space) recognized as a legal criteria that determines the spread on it similar to the aircraft terms of the national legal regime.

However, the absence of a legal distinction creates legal uncertainty concerning the application of standards respectively air and space law. Adherence by participants of cosmic relationships that listed above regarding space activities requires a clear delineation of airspace and outer space (Lee 2012).

In addition, it is important to bear in mind that international space law depending on the location (site) where harm was cause by a space object provides features of the implementation of international legal responsibility. According to rules established by Article II, III Space Liability Convention, the country that launched the device, should be absolutely liable to pay compensation for damage caused by its space object on the surface of the Earth or to aircraft in flight. If in any place other than the surface of the Earth to a space object of that country launching spacecraft, or persons or property on board such a space object caused damage to a space object of another state, launching a spacecraft, the last one shall be liable only if the damage is caused by his fault or the fault of persons to whom it is responsible. So, depending on the location (site) harm caused the space object (or air space) should apply international legal regime of the state of absolute or limited liability country.

In modern science and practice of public international law justified the formation of the international space law, customary law, the essence of which lies in the fact that the boundary between airspace and outer space is at an altitude minimum perigee of artificial satellites (about 100-110 km above sea level).

In the meaning of Art. 38 of the Statute of the International Court of Justice formed the custom in the practice of international relations. For its formation requires the approval of all members of the international community to the main elements, the presence of which is necessary for the statement of terms of international law. It is, on the one hand, the existence of the practice, and on the other - on the recognition of this practice as a legal norm. In other words, an international legal practice becomes a source of international space law, provided the existence of a general practice accepted as a legal norm (Domestic Launch Legislation and Regulations 2001).

The theoretical basis for the formation of this custom of international space law were an international legal problems of delimitation, first of all, the International Law Association and of the Soviet science of international

space law. In a resolution from 1968, the International Law Association emphasized that 'used in the Outer Space Treaty (1967), the term' outer space 'should be interpreted as covering all the space above and at least perigee of any satellite, launched in 27/01/1967 – opening dates Agreement for signing by other countries while preserving the possibility of including in it later and some part of the space located below the above perigee'.

On the other hand, in 1984, the former Soviet Union included to the UN Committee on Space concrete legal proposals on the establishment of a conditional legal boundaries between space and air space, which must take place at an altitude of 100-110 km above sea level, while maintaining the right space flight objects at low altitude over the territories of other countries for their entry into orbit and return to Earth. It can be concluded that outer space begins with a height of 100-110 km, that is, the minimum perigee altitude satellites, and the sovereignty of countries not covered above the limits outlined by the satellites in orbit perigee.

Analyzing the conceptually-theoretical approach to the customary regulated delimitation relations in international space law has a practical application. As practice shows, the International Aeronautical Federation registers the flight as a space ranging from a height of 100 km, because it is at this altitude the spacecraft can make a full orbital revolution around the Earth, and then begins its entry into the dense layers of the atmosphere, braking and falling to Earth (if he burned in the dense layers of the atmosphere).

With the help of international custom, as the V.L. Tolstoy, it was managed to solve the problem of the delimitation of airspace and outer space: the boundary between them is set at an altitude of 100 km (minimum height of the orbit of artificial satellites). However, with the appropriate scientific conclusions it can be agree only in part, with certain flexibility clause.

Today, in our opinion, it is impossible to talk about the formation of a universal custom understanding of international space law, since a large part of the countries, as noted above, does not support the initiative concerning the delimitation of air and outer space. Therefore, the recognition of the international custom that created only by some countries appears only at their local customary law of local international relations, regulating the relations between two or more subjects of international space law (Haley 1961). In other words, the non-recognition by other countries of custom legal nature of the delimitation of air and outer space makes it impossible to use the custom in the relevant legal relations of subjects of international space law. However, despite the creation of customary legal norms of international space law practice, in a small number of countries, can be recognized as a legal norm by all countries.

In addition, it is necessary to take into account the fact that the modern theory and practice operate with different approaches and calculations in solving problems of delimitation. As the classification of the US Air Force, spaceflight find flight whose height is more than 50 miles (80 km 467 m). At the same time, NASA experts define the boundary of outer space at an altitude of 122 km. But technical calculations of scientists from the University of Calgary shows that the boundary between Earth's atmosphere and open space passes at an altitude of 118 km from the Earth's surface.

In air law doctrine expressed thought about the appearance of legal custom, according to which the boundary between air and outer space is determined at a height between 80 and 140 km, which corresponds to the minimum perigee of artificial space objects. Some academic lawyers also offer air law that carries out calculation of the altitude limit of the airspace on the basis of two criteria: the possibility of using the aerodynamic properties when flying and security of countries within the sovereign airspace (up to 65 km above sea level). The lower boundary of outer space should take place at an altitude of 100-110 km above sea level. At the same time between the two spaces shall be 'gray area', free for the removal of spacecraft into space and return them to Earth.

In connection with this important integration and coordination of efforts of theoreticians and practitioners of the air and space law experts of the Scientific and Technical Subcommittee and Legal Subcommittee of the UN Committee on outer space, as well as the International Civil Aviation Organization (ICAO) for the agreement of technical and legal approach to find the solution of the delimitation and legal problems (von der Dunk 2010).

But international legal incompleteness of the question of delimitation issue necessitated its settlement at the level of national space legislation. According to the definition indicated in Article 1 of the Law of the Republic of Kazakhstan dated 06.01.2012 number 528-IV 'On space activities' under the space – understands space extended beyond the airspace at an altitude of 100 km above sea level.

National space law in Australia does not contain a definition of outer space. However, according to the amendments to space law, as amended in 2002 to provide legal certainty regarding the scope of the Act on Space Activities in 1998, the latter is used in space activities, which are or should be carried out at an altitude of 100 km. However, Australia asserts that the reference to 100 km is not an attempt on the part of the country to

define or delimit outer space. On the contrary, the Law amendments concerning the replacement of the term 'outer space' to 'area located at a distance of 100 km above average sea level.'

In Asia, there is a fairly strong dissonance caused by the overflow of technology from one industry to another, and the uneven development of space programs in general. South-East Asia – a region that has a lot of advanced technology, and technically is the most progressive country. However, the rocket technology still is a product of import. Perhaps it is not a target for countries such as the Republic of Korea. With access to the resources and infrastructure to implement the most advanced technologies, the possibility of space exploration is the only way to enhance its capacity to form complex and base of technological knowledge. This is an extremely successful synergistic solution, as in all major ratings of the Republic of Korea performs fully state function - maintains a high level and quality of life and it allows you to find new vectors for the development of the country. Space technology can also, if necessary, be licensed or acquired, and well-established advanced technical facilities and its own research centers will help as soon as possible to realize their reproduction in the country. National legal space control system was built in a similar way.

South Korea will spend in 2017 – 746.4 billion won (\$ 603 million) in the space program on the program 'Space 2020', which is offered by the Ministry of Science, ICT and scientific forecasting (adjustable Patent Act Ministry of Government Legislation).

## Conclusions

In summary, we should note of the theoretical and the practical needs to define precisely the conditional boundary between air and outer space. Now usually, the legal regulation of space-relations delimitation is not having universal understanding.

It seems that the solution to the problem of the delimitation of air and outer space should be done through the adaptation of international legal norms on the basis of a contract the expresses consent of the countries. It should be implemented on the basis of universally recognized principles and norms of international air and space law, as well as national legislation ensuring the sovereignty, territorial integrity and national security of countries. Just legalization of space-relations delimitation can be made within the framework of a future comprehensive convention on space law, making customary law on the treaty. Anchoring of international legal treaty rules on the delimitation of airspace and outer space will contribute, in particular, the progressive development of international space law, as well as ensuring an adequate international space law.

Having performed in the last quarter of the XX century, a record economic spurt, the Republic of Korea made a bid for the program of development of high technologies, including aerospace, considering it one of the ways to raise the competitiveness of their products on the world market and at the same time increase the political reputation and defensive power of the country.

Rocket and space programs of the Republic of Korea, on the one hand, certainly stimulate the progress of Korean science and technology, but on the other hand, the concern of its neighbors - North Korea and Japan, as well as US displeasure that actively block the spread of missile technology, even in the union state of Washington.

## References

- [1] Bhatt, M. 2015. *Constituting Outer Space: The Governance of Planetary Settlements and Artificial Habitats*. In C. S. Cockell (Ed.), *Human Governance Beyond Earth: Implications for Freedom* (pp. 149-171). Cham: Springer International Publishing. doi 10.1007/978-3-319-18063-2\_11
- [2] de Oliveira Bittencourt Neto, O. 2015. *Air Space and Outer Space in Defining the Limits of Outer Space for Regulatory Purposes* (pp. 5-30). Cham: Springer International Publishing. doi 10.1007/978-3-319-16685-8
- [3] de Oliveira Bittencourt Neto, O. 2015. *National Legislation and Comparative Law in Defining the Limits of Outer Space for Regulatory Purposes* chapter 6 (pp. 65-70). Cham: Springer International Publishing. doi 10.1007/978-3-319-16685-8
- [4] Filho, J.M. 2016. *Outer Space as Private Property and Theater of War?* in P. M. Sterns and L. I. Tennen (Eds.), *Private Law, Public Law, Metalaw and Public Policy in Space: A Liber Amicorum in Honor of Ernst Fasan* (pp. 123-144). Cham: Springer International Publishing. doi 10.1007/978-3-319-16685-8
- [5] Haley, A.G. 1961. *Survey of Legal Opinion on Extraterrestrial Jurisdiction*. In A.G. Haley and K. Grönfors (Eds.), *XIth International Astronautical Congress Stockholm 1960 / XI. Internationaler Astronautischer*

- Kongress / Xle Congrès International D'Astronautique: Proceedings Vol. III Third Colloquium on the Law of Outer Space (pp. 37-92). Berlin, Heidelberg: Springer Berlin Heidelberg.
- [6] Jakhu, R.S., Pelton, J.N., and Nyampong, Y.O.M. 2017. *National Space Laws and the Exploitation of Natural Resources from Space Space Mining and Its Regulation* (pp. 131-144). Cham: Springer International Publishing. ISBN 978-3-319-39246-2. doi 10.1007/978-3-319-39246-2
- [7] Kopal, V., Neger, T., Walter, E., Kerrest, A., Stadlmeier, S., Soucek, A., Hobe, S. 2011. Outer Space — A Legal Issue. In C. Brünner and A. Soucek (Eds.), *Outer Space in Society, Politics and Law* (pp. 219-489). Vienna: Springer Vienna.
- [8] Lee, R.J. 2012. State Responsibility and Liability for Compliance with International Space Law and Regulation of Commercial Mining of Minerals in Outer Space (pp. 95-151). Dordrecht: Springer Netherlands.
- [9] Masson-Zwaan, T., and Crowther, R. 2014. Legal and Regulatory Issues. In M. Macdonald and V. Badescu (Eds.), *The International Handbook of Space Technology* (pp. 657-675). Berlin, Heidelberg: Springer Berlin Heidelberg.
- [10] Siemon, N., and Freeland, S. 2010. Regulation of Space Activities in Australia. In R. S. Jakhu (Ed.), *National Regulation of Space Activities* (pp. 37-59). Dordrecht: Springer Netherlands.
- [11] Soucek, A., Koudelka, O., Venet, C., Frischauf, N., Grömer, G., Neger, T., Balogh, W. 2011. Outer Space — A 'Real' Issue. In C. Brünner and A. Soucek (Eds.), *Outer Space in Society, Politics and Law* (pp. 31-218). Vienna: Springer Vienna.
- [12] Tarikhi, P. 2015. *Legislation, managerial and administrative turmoil in The Iranian Space Endeavor: Ambitions and Reality* (pp. 117-134). Springer Praxis Books, doi 10.1007/978-3-319-05347-9\_5, Springer International Publishing Switzerland
- [13] Tronchetti, F. 2013. *The Legal Framework Regulating International Outer Space Activities in Fundamentals of Space Law and Policy* (pp. 3-24). New York, NY: Springer New York. doi 10.1007/978-1-4614-7870-6\_1
- [14] Tronchetti, F. 2013. *National Space Legislation Fundamentals of Space Law and Policy* (pp. 25-35). New York, NY: Springer - Verlag New York New York. doi 10.1007/978-1-4614-7870-6
- [15] Tronchetti, F. 2016. *Chinese Space Legislation: Current Situation and Possible Way Forward*. In P.M. Sterns and L.I. Tennen (Eds.), *Private Law, Public Law, Metalaw and Public Policy in Space: A Liber Amicorum in Honor of Ernst Fasan* (pp. 81-107). Cham: Springer International Publishing.
- [16] von der Dunk, F. 2010. *Regulation of Space Activities in the Netherlands*, in R.S. Jakhu (Ed.), *National Regulation of Space Activities*, chapter 10 (pp. 225-245). Dordrecht: Springer Netherlands. Available at: <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1060&context=spacelaw>
- [17] Walter, E., Remuss, N.L., Soucek, A., Schrogl, K.U., Tronchetti, F., Hertzfeld, H.R., Schmidt, Y. 2011. 'Hot' Issues and Their Handling. In C. Brünner and A. Soucek (Eds.), *Outer Space in Society, Politics and Law* (pp. 491-725). Vienna: Springer Vienna.
- \*\*\*Domestic Launch Legislation and Regulations. 2001. *Launching Space Objects: Issues of Liability and Future Prospects* (pp. 77-147). Dordrecht: Springer Netherlands.
- \*\*\*The International Legal Framework. 2004. *Legal Basis for a National Space Legislation* (pp. 1-71). Dordrecht: Springer Netherlands.
- \*\*\*The United Nations and Outer Space: Celebrating 50 Years of Space Achievements. 2009. In K.U. Schrogl, C. Mathieu, and N. Peter (Eds.), *Yearbook on Space Policy 2007/2008: From Policies to Programmes* (pp. 237-252). Vienna: Springer Vienna.



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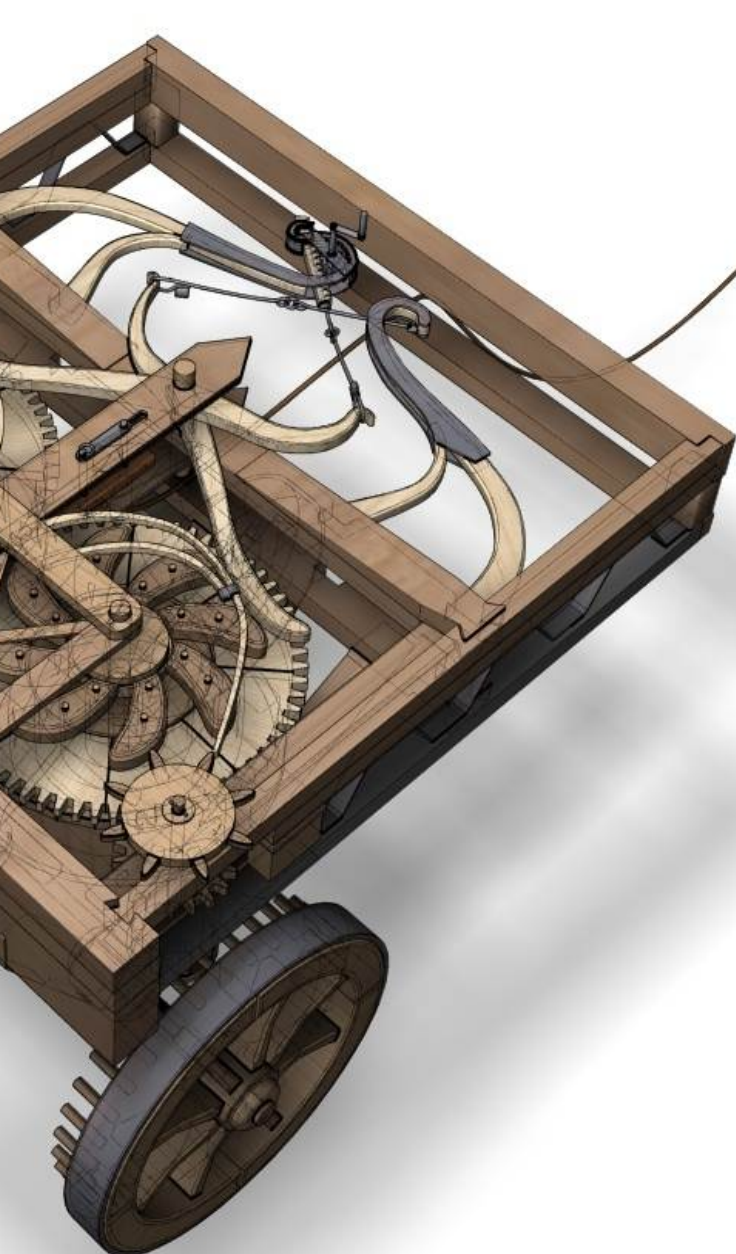
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