

UDC 347.77:341.229(043.2)

ISSUES OF LEGAL REGULATION OF OWNERSHIP OF THE MOON AND OTHER CELESTIAL BODIES, INCLUDING SPACE RESOURCES

Nikita Kolos

National Aviation University, Kyiv

*Supervisor – Veronika Oleshchenko,
Candidate of Sciences in Public Administration*

Keywords: international space law, Moon and other celestial bodies, a right of property, space objects, space resources.

The issue of legal regulation of ownership of space bodies and their resources is becoming increasingly relevant with the advent of new technologies and the development of governmental space programs, ideas and goals of an international scale. In the course of researching this topic, we used the methods of analysis and generalization of the system of international legislation in the field of legal regulation of outer space.

According to Article II of the Outer Space Treaty, there is a clear prohibition of any national appropriation, whether by claim of sovereignty, use or occupation, or by any other means [1]. In other words, this document makes it impossible for any government to attempt to appropriate any part of outer space land or object in outer space for mercenary reasons. Nevertheless, there is a well-known case of legal registration of the ownership of US citizen Dennis Hope to all the planets of the solar system and 53 other space bodies, except for the Earth and the Sun. On the one hand, the absence of a provision in Article II of the Treaty prohibiting the appropriation of outer space, including the Moon and other celestial bodies, by an individual provides a legal opportunity to make such a transaction. But, on the other hand, under the terms of the procedure performed by Dennis Hope, who justified his desire by the

fact that a thing that does not belong to anyone in the absence of other claimants may become the property of the one who first claims his right to it (in accordance with the laws of the State of California), is a direct violation of the principle of international law enshrined in Articles I, II, IV of the Treaty on the Common Heritage of Mankind (the exploration and use of outer space must be carried out for the benefit and in the interests of all countries and all mankind, and space must be free for exploration and use by all states). Also, the illegitimacy of Dennis Hope's action is confirmed by the interpretation of the Open Space Technology (OST) participants of private property in outer space: "one of the three main principles that was approved is the prohibition of any claim of sovereignty or property rights in space. The reason why an explicit mention of the prohibition of private property was not mentioned was because it was already on the table. Another point that works in favor of this view is the words in the article "By any other means". Appropriation cannot be by any other means, and thus private property is included. The final support for this view may be the fact that private property cannot exist without national appropriation. This means that a person occupies land on behalf of the state. Therefore, the state must recognize this requirement" [3].

Another issue of concern is the refusal to sign and ratify the Agreement on the Activities of States on the Moon and Other Celestial Bodies, which states, in particular, in Article 4, that the exploration and use of the Moon is the property of all mankind and is carried out for the benefit and in the interests of all countries, regardless of their degree of economic or scientific development. Also, in our opinion, the provisions of Article 11 of this Agreement are particularly important, which expressly defines the status of the Moon and its natural resources as the common heritage of mankind, and prohibits the appropriation by an international intergovernmental or non-governmental organization, national organization or non-governmental institution or any individual of its surface, subsoil and natural resources thereon [2]. To date, this agreement has been signed and ratified by only 14 countries (Australia, Austria, Belgium, Kazakhstan, Lebanon, Morocco, Mexico, the Netherlands, Pakistan, Peru, Uruguay, the Philippines, Chile, Bosnia and Herzegovina, and the United States), including the country that is

probably the first to implement a space program for the stable human presence on the lunar surface, namely the United States. Thus, during Trump's presidency, there has been an active development of US space policy. In particular, the signing of 5 US Space Policy Directives (Project Artemis) and the Order to Support Commercial Extraction of Resources on the Moon and Other Celestial Bodies, which emphasizes that the United States refuses to consider the resources of the Moon and other celestial bodies as the property of mankind and seeks to spread this approach in other countries [4], which contradicts Article 11(3) of the Agreement, namely the placement of personnel, spacecraft, equipment, facilities, stations and structures, including structures inextricably linked to the Moon's surface or subsoil, on the Moon's surface or in its interior does not create ownership of the Moon's surface or subsoil or areas thereof.

Given the complexity of the issue, there is an urgent need to detail the norms of existing international space documents and establish mechanisms that would ensure the mandatory signing and ratification (implementation) of international agreements on the development and use of the Moon, its subsoil and outer space, as well as resources by those states directly involved in the implementation of targeted space programs and the settlement of the issue of ownership and commercialization of space.

References:

1. Dohovir pro pryntsyvy diialnosti derzhav po doslidzhenniu i vykorystanniu kosmichnoho prostoru, vkluchaiuchy Misiats ta inshi nebesni tila. Dohovir OON 995_480 vid 27.01.1967
2. Uhoda pro diialnist derzhav na Misiatsi ta inshykh nebesnykh tilakh. Dohovir OON 995_482 vid 18.12.1979
3. Pop V.H. Komu nalezhyt Misiats? Pozazemni aspekty prava vlasnosti na zemliu ta mineralni resursy. 2009. URL: <https://www.springer.com/de/book/9781402091346>
4. Tramp vs. Baiden: za koho kosmosu krashche? M. Kirpachova, A. Hurova. Yurydychna praktyka vid 17.11.2020. URL: <https://pravo.ua/tramp-vs-bajden-za-kogo-kosmosu-krashhe/>