

The Convention on Registration of Objects Launched into Outer Space and Its Implementation in Colombia's National Legal System

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Abstract

This paper describes the process, interpretation and extent of Colombia's accession to the Convention on Registration of Objects Launched into Outer Space (*Registration Convention*). It also analyses the principal consequences of its implementation on the national system.

Colombia deposited its instrument of accession on 10 January of 2014, and thus being the first treaty of the *Corpus Iuris Spatialis* to be acceded by the country. The accession contains several challenges. First, States are confronted with the interpretation of the concepts of 'launching State' and 'State of registration', due to the fact that a State is not only supposed to launch objects into space, but is also supposed to promote them. Secondly, another challenge is to interpret the aforementioned concepts under Colombian legislation.

Likewise, it is pertinent to analyze the scope of the obligations undertaken by Colombia regarding the creation of a register of objects launched into outer space. Hence, this paper will also examine which legal vehicle would be ideal to create the register (law, decree or administrative act) and which would be the responsible entity to manage it (the Ministry of Foreign Affairs, Ministry of Information Technologies and Communications, Presidency of the Republic, or another entity).

Finally, this paper will analyze the process of accession to the treaty, since it was the result of a three public power's intervention: the legislative power with the Act 1569 of 2012, the judiciary power with the C-220 sentence of 2013, and lastly the executive power with the decree 1065 of 2014. The aforementioned instruments reflect the *Registration Convention's* scope within the legal context of a developing country. Undoubtedly, the *Registration Convention* could be a mechanism to stimulate national space activities, even for developing countries.

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1. The Treaty and Its History

The access of humanity to outer space brought many new challenges to the international society. One of them was related to the identification of objects launched into space, which was indispensable in order to regulate and control outer space activity and ensure its peaceful use. Hence, the United Nations General Assembly adopted Resolution 1721 (XVI), named 'International Cooperation in the Peaceful Uses of Outer Space'. There, the UN Assembly called "upon States launching objects into orbit or beyond to furnish information promptly to the Committee on the Peaceful Uses of Outer Space, through the Secretary-General, for the registration of launchings". By means of the resolution, the UN Assembly also requested the Secretary-General to maintain a public registry of the information furnished.

Despite the fact that the UN Assembly initiative was successful, it was necessary to develop a more binding instrument, such as a convention. Consequently, on 12 November 1974 the UN General Assembly adopted the Convention on Registration of Objects Launched into Outer Space by resolution 3235 (XXIX). Which was opened for signature on 14 January 1975 and entered into force on 15 September 1976. So far, more than 50 states have ratified the Convention, a number that lies significantly below the number of ratifications of the previous treaties of outer space.¹

2. Colombian Accession Process

Since the 2000s, Colombia realized the necessity to promote certain sectors such as the outer space sector and the sea sector. Therefore, Colombia started to be a member of international legislation, reflecting its compromise and cooperation with the development of these sectors. Sentence C-278 of 2004 of Colombian Constitutional Court² established Colombia's necessity to conform international law in order not to block the prosperity of the Country. It also authorized the Government to ratify the INTELSAT Treaty amendment, even though there was a fear regarding the sovereign claims of Colombia's geostationary orbit segment.³ In addition, in 2006 Colombia created the Colombian Space Commission (CSC), which should promote a national policy regarding outer space. An important part of CSC's strategies is to encourage Colombian accession to international conventions related to the topic. As a result, Colombia has already accessed to the Registration Convention and the Liability Convention.

1 L. Perek. 1976 Registration Convention. *German Journal of Air and Space Law* 47: (1998) 351-360.

2 Sentence C-278 of 2004 of Colombian Constitutional Court.

3 J. Becerra. A survey of Colombia's new outer space policy: Reforms in Colombian law. *Acta Astronautica*, Volume 63, Issues 1-4, July-August (2008), 560-563. <http://dx.doi.org/10.1016/j.actaastro.2007.12.055>.

On the seventh of September of 2011, the Government of Colombia, represented by the Minister of Foreign Affairs and the Minister of Communication and Information Technology presented the Bill 117 to the Congress of the Republic for its approval. The Bill contained the Registration Convention in its integrity, with the following purposes in its explanatory memoranda:⁴

- Establishing a foundation in order to conclude further treaties with other countries concerning the outer space.
- Taking the first step to develop domestic law regarding the outer space.
- Protecting Colombian satellite projects.
- Giving a message of responsibility to the world in the sense that Colombian space objects will be used for peaceful purposes.

During the debates in the Congress, the initiative was highly accepted and was approved by the Senate and the Chamber of Representatives unanimously. The only concern was risen by the Astronomical Observatory, who affirmed that the Registration Convention was not clear enough regarding some fundamental definitions concerning states' liability. However, since the Liability Convention was also being debated in the Congress the concern was resolved.⁵

On August 2nd of 2012, the Congress of the Republic of Colombia approved the Registration Convention by the 1569 Act.⁶

Subsequently, the Constitutional Court of Colombia did an automatic constitutional review of the 1569 Act of 2012. Hence, in the C-220 judgement of 2013, the Constitutional Court declared the constitutionality of the 1569 Act and, consequently, of the Registration Convention.⁷ In the

4 Comité Técnico de Asuntos Espaciales. See Comité Técnico de Asuntos Espaciales. Documento de recomendaciones del Comité Técnico para integrar la propuesta de creación de una Agencia Espacial en Colombia – 2011. Comisión Colombiana del Espacio.

https://www.cce.gov.co/sites/default/files/adjutnos_basic_page/Documento_Recomendaciones_Comite_Tecnico.pdf (consulted on the 14th of September of 2016).

5 Virgüez, Manuel. See Manuel Virgüez. Informe de ponencia segundo debate proyecto de ley 117 de 2011 senado. Imprenta Nacional de Colombia. http://www.imprenta.gov.co/gacetap/gaceta.mostrar_documento?p_tipo=27&p_numero=117&p_consec=31177 (consulted on September 14th 2016). Ministerio de Relaciones Exteriores y Ministerio de Tecnologías de la Información y las Comunicaciones. See Ministerio de Relaciones Exteriores y Ministerio de Tecnologías de la Información y las Comunicaciones. Proyecto de Ley 117 de 2011 Senado. Imprenta Nacional de Colombia. http://www.imprenta.gov.co/gacetap/gaceta.mostrar_documento?p_tipo=05&p_numero=117&p_consec=30150 (consulted on September 14th 2016).

6 Congreso de la Republica de Colombia, Ley 1569 de 2012.

7 Corte Constitucional de la República de Colombia, sentencia C – 220 de 2013.

judgement, the Constitutional Court affirmed that the purposes of the Registration Convention are coherent with the principles of Colombian Constitution.⁸ The purposes, in the words of the Constitutional Court, are: first, the development of the peaceful exploration of the outer space and, second, the consolidation of the international liability of states.⁹

Hereinafter, on January 10th of 2014, the instrument of accession of the Registration Convention, issued by the President of Colombia, was deposited before the General Secretary of the United Nations Organization. Therefore, the Registration Convention is now binding for Colombia.¹⁰

3. Obligations Undertaken

The Registration Convention includes certain obligations that must be complied with by Colombia. The principal one is written in article 2 of the Convention and entails the responsibility of maintaining an appropriate register of objects that Colombia launches or procures the launching.¹¹ Among other things, the information delivered to the register shall at least include:

- Name of launching States or States;
- An appropriate designator of the space object or its registration number;
- Date and territory or location of launch;
- Basic orbital parameters, including:
 - Nodal period;
 - Inclination;
 - Apogee;
 - Perigee;
 - General function of the space object.¹²

In addition, the aforementioned information shall be furnish to the Secretary General of the United Nations, (as soon as practicable).¹³ Colombia shall also notify the Secretary General of the United Nations (of space objects concerning which it has previously transmitted information, and which have been put no longer are in earth orbit).¹⁴

One can assume that the Registration Convention establishes two main obligations for states. Firstly, every state shall have a register of objects

8 Ibid.

9 Ibid.

10 Documento de la ONU: C.N.19.2014. TREATIES-XXIV.1 (*Depositary Notification*).

11 Convention on registration of objects launched into outer space. Adoptado el 12 de noviembre de 1974. UN Treaty Series. Vol. 1023-I-15020. P. 16.

12 Ibid. Art. IV.

13 Ibid.

14 Ibid.

launched into outer space according to the conditions and contents determined by it. However, this obligation only applies if the state has launched or procured the launching of a space object. Secondly, every state shall inform the Secretary General of the United Nations about the objects contained in its register.

One could draw attention to the first obligation since it is not mandatory for a state to create a register if it has not launched an object into outer space. Hence, as Colombia has not launched objects into outer space yet, it is not mandatory for her to create such a register. Conversely, Colombia's accession to the Registration Convention is a preparation of the legal conditions for a future launching. The register is not a current necessity of the country.

4. Inspection Authority

The Colombian Space Commission (*La Comisión Colombiana del Espacio – CCE*) was created on July 18th of 2006 by the Government through the 2242 decree. It was meant to guide the implementation of the national policy for the development and application of space technologies and coordinate plans, programs and projects in this field.¹⁵ The Commission is integrated by the Vice-president of the Republic, the Minister of Foreign Affairs, the Minister of National Defense, the Minister of National Education, the Minister of Communication and Information Technology, the Minister of Interior and Justice, the Minister of Agriculture, the Minister of Transport, the Minister of the National Planning Department, the Commander of the Air Force, the Director of the Administrative Department of Civil Aviation, the Director of the Geographic Institute 'Agustin Codazzi', among others,¹⁶ who shall meet twice a year.¹⁷

Furthermore, it also has a Technical Committee, which is comprised of representatives of the aforementioned Commission members. On September of 2011, the Technical Committee presented to the Commission a document of recommendations addressed to create a Colombian Space Agency. In the document, the Technical Committee recommended that the Colombian Space Agency should be a Special Administrative Unit, with its own legal personality and administrative and budgetary autonomy.¹⁸ The advice of the

15 Presidencia de la República de Colombia y Ministerio de Relaciones Exteriores de Colombia. (18 de Julio de 2006). Decreto por el cual se crea la Comisión Colombiana del Espacio. [Decreto 2442 de 2006]. DO: 46.336 de 21 de julio de 2006.

16 Ibid. Art. 3.

17 Ibid. Art. 5.

18 Comité Técnico de Asuntos Espaciales, "Documento de recomendaciones del Comité Técnico para integrar la propuesta de creación de una Agencia Espacial en Colombia – 2011", Comisión Colombiana del Espacio, <https://www.cce.gov.co/sites/default>

Technical Committee also included the structure that the Colombian Space Agency should have:

- Council or Governing Board,
- General Directorate,
- Sub-general Directorate,
- Office of Planning and Strategy,
- Office of Legal Affairs and Institutional Relations,
- Office of Management and Financial Administration,
- Office of International Affairs,
 - Technical Departments:
 - Department of Earth Observations,
 - Department of Space and Communications,
 - Department of Satellite Navigation and Monitoring,
 - Department of Astronomy, Astronautics and Rocketry,
 - Department of Aerospace Medicine and Telemedicine.¹⁹

The Agency has not been created and the topic has been relegated to a secondary plane by the government policies since 2011. Furthermore, there has been state budget cuts in recent years, which has caused the cancelation of the building, launching and managing projects of telecommunication and remote sensing satellites. The aforementioned has caused uncertainty about the development in the short and medium term of a space sector in Colombia, strengthening the utility of the Registration Convention.

However, beyond the fact that the Colombian Space Agency has not been created yet, in the entire document there is no reference of any suggested register of objects launched into outer space, not even as a function of the mentioned entities. Hence, even if Colombia creates the Space Agency as recommended by the Technical Committee, it would still be in non-compliance with the Registration Convention.

Conversely, the Ministry of Communication and Information Technology, which has always been a leader in the topic and has presented the Bill of the Registration Convention to the Congress of Colombia, could have better tools to manage a proper registry of objects launched into outer space. Nowadays, the Ministry of Communication and Information Technology manages the 'Register of Satellite Capacity Suppliers', which aims to authorize satellite capacity suppliers to provide their services in Colombia.²⁰ The creation of the

/files/adjuntos_basic_page/Documento_Recomendaciones_Comite_Tecnico.pdf
(consulted on the 14th of September of 2016).

19 Ibid. Pp. 15.

20 Ministerio de Tecnologías de la Información y las Comunicaciones. (29 de enero de 2013). Resolución por la cual se establecen las condiciones y requisitos para la obtención del registro de proveedor de capacidad satelital y se dictan otras disposiciones. [Resolución número 000106].

register was due to the regulations emitted by the Andean Community and the International Telecommunication Union, from which Colombia is a member state. Thus, one could affirm that Colombia, more exactly, the Ministry of Communication and Information Technology could have the capacity to manage the register of objects launched into outer space with no difficulty whilst a proper entity is established. Moreover, since almost every object launched into outer space uses the electromagnetic spectrum to send data, the Ministry of Communication and Information Technology would also be involved and would need to ask for registration either way.

5. The Outreach of the Registration Convention for Colombia

The Registration Convention and the creation of a register of objects launched into outer space enables Colombia to become a 'launching state'. In other words, Colombia could launch or procure the launching of a space object, or its territory could be used to launch them.²¹

The aforementioned could be an advantage for Colombia for many reasons. Firstly, Colombia could launch a Colombian Satellite, which could be very useful to connect zones of the country with no road or communication infrastructure.²² Secondly, it would also be useful for cartography, geology, meteorology, oceanography and resource management. Thirdly, a satellite could be also very important to the Colombian post-conflict process with the insurgent group FARC, because it would be helpful to control and supervise their disarmament and ensure security in some conflictive zones. Fourthly, a satellite could be very helpful to guard Colombian borders and delimitate precisely its territorial boundaries. Fifthly, Colombian citizens could research scientifically in many fields of knowledge such as astronomy, astronautics, aerospace medicine and telemedicine.

Undoubtedly, creating a register would help Colombia not only to comply with its international obligations, but also to take many steps forward to a more developed country.

6. Conclusions

One can conclude the following:

- Currently, Colombia has no duty of having a registry of objects launched into outer space as it has not launched such an object since its accession to the Registration Convention. Consequently,

²¹ Supra note 11.

²² Ministerio de Tecnologías de la Información y las Comunicaciones. See Ministerio de Tecnologías de la Información y las Comunicaciones. Satélite. Gobierno de Colombia. <http://www.mintic.gov.co/portal/604/w3-article-2241.html> (consulted on September 15th 2016).

Colombia also do not have the duty to inform the UN Secretary General.

- The Technical Committee of the Colombian Outer Space Commission has recommended the creation of a National Space Agency. However, the Technical Committee did not refer to a register as a task or duty of the Colombian Space Agency. Furthermore, the Colombian Space Agency has not been created.
- The Ministry of Communication and Information Technology could assume the task of registering any space object launched into outer space, as it already must register any use of the electromagnetic spectrum and already has a 'Register of Satellite Capacity Suppliers'.
- To Colombia, creating a register could mean the opportunity to be a 'launching state', which entails many advantages in a variety of knowledge fields.
- The accession to international conventions is one of the best actions to take to foster the space sector in Colombia. Nevertheless, those accessions should be accompanied by real actions such as granting enough state budget and developing appropriate institutions. In the medium and short term, the Registration Convention will not be implemented due to the lack of strategies in the private sector and regarding educational initiatives.