

ECSL News

Bulletin of the European Centre for Space Law – Published under the auspices of the European Space Agency

The Chairman's word

In Issue No. 1 of ECSL News an invitation was extended to attend the inaugural meeting of the European Centre for Space Law, preceded by a demonstration of ESALEX. Considering that this was largely an organisational meeting, it is a tribute to the level of interest in advancing space law research in Europe that not only was the meeting well attended, but there also was a good balance between the different segments of the European space-law community represented.

Special thanks are owed to the Preparatory Group for their efforts before the meeting and to my own and ESRIN staff, who devoted much of their own time to this project, and of course to the ESA Director General Professor Reimar Lüst for his encouragement and support. But it was, finally, the participants themselves that made the meeting a success.

They approved the ECSL Charter and also elected the first ECSL Board, while taking the first steps in defining the topics towards which the initial ECSL research effort should be directed.

These mark substantial outcomes, for the Centre can now of course start to grow. And it is the speed with which ECSL members have acted since 12 May that convinces me that we shall achieve the Centre's ambitions. In particular, first donations to the ECSL fund have arrived and further sums have been promised. On the organisational side, it was my pleasure to attend the preparatory national-point-of-contact meeting, held in Paris on 15 June. Other national-level meetings will take place in the coming months.

Thus, as we review in this issue of ECSL News the proceedings of the May meeting, we can conclude that the ECSL has got off to a good start. As always, though, it is with you, the individual member, that the Centre's destiny lies. But, if the October and May meetings and their follow-on are anything to go by, I am sure it is in good hands!

G. Lafferranderie
Chairman, ECSL Board

The Foundation of the European Centre for Space Law

Around seventy gathered at ESA Headquarters on 12 May for the ECSL inaugural meeting. They came from the majority of ESA's Member States and from all of the main space-law communities – the university sector, private and public practice, and industry.

The object of the meeting was not to decide whether setting up a European Centre for Space Law was a good idea. That had already been affirmatively decided at the October 1988 preparatory meeting. Rather, this was the occasion to review the work that had been done since and to decide whether the orientation proposed by the ECSL Preparatory Group and ESA was the right way to go. Thus, in addition to giving reports on the interim activities, criticisms were voiced and alternative approaches put forward. As in other international groupings, it was evident that consensus had to be the order of the day. And with just one day – with a full agenda – to complete the business, goodwill among those holding different views was essential. That goodwill assured the meeting's success.

Opening Remarks and Reports

- Opening the meeting, ESA Director General Reimar Lüst noted that ESA's

part in forming the ECSL fell into 'a long history', shared with its predecessors, 'of utilising the technical and intellectual resources at their disposal to foster space-related communities where only isolated groups existed before'. In this connection, he stressed the significance of setting up the ECSL as a partnership that would promote inter-disciplinary dialogue among lawyers, engineers, economists and scientists.

- Leading the reports of Preparatory Board members, meeting Chairman and ESA Legal Adviser Gabriel Lafferranderie reiterated the catalytic role the ECSL could play and added his thanks to Prof. Lüst's to those whose efforts had advanced the ECSL project so far. Examples of this work were the refinement of the draft ECSL Charter, analysis and response to the results of a survey on the space-law community's demands, the development of the ESALEX database to demonstration standards, and the launch of a new survey on the state of space-law teaching in Europe.

Despite the importance of the formal commencement of ECSL activities, Dr. Lafferranderie emphasised, on the other hand, that the ECSL had not been given

Inauguration ceremony of ECSL on 12 May at ESA Headquarters. From left: Prof. de Lupis, Prof. Reijnen, Prof. Böckstiegel, Prof. Lüst, Mr. Lafferranderie and Mr. van Reeth.



legal personality at this stage. The Centre is an unincorporated association, using informal working arrangements, and this conception should be retained until a need for a more formal structure really arises. Further, ESA's role in the Centre should be properly understood. It is a member, not a mere supplier of services to users – even if the nature and order of magnitude of its contribution do imply some special features, such as confirmation of its membership by its delegate bodies.

- Presenting a more detailed resume of the Preparatory Group's activities and a critical review of the extent of awareness of space law issues in Europe, Dr. Bourelly next addressed the meeting, whose report was succeeded by two further accounts of interim activities. The first – on the ECSL operations concept and related management questions – was given by Kevin Madders (ESA). He confirmed that ESALEX had been developed up to demonstration standards. This was thanks largely to the exceptional support provided to the project by ESRIN's Information Services Division under difficult conditions (including earthquake disturbance near ESRIN's Frascati base!). Following the previous day's demonstration of ESALEX, a pilot group will now be established in the autumn, and there is a good chance that the system will be fully operational at the end of the year. As to *ECSL News*, the first print-run was 2000 copies, distributed worldwide. Congratulations were due to ESA Publications Division for facilitating production of a first copy in such a quantity and of such technical quality. The last aspect of the operations concept Mr. Madders mentioned was a system of transnational workshops to be fostered by ECSL, a system which Mr. Lafferrandier later emphasised should start at a modest pace but within the framework of a long-term research programme.

During the second report, Prof. Zanghi explained the structure that would be needed to connect activities at pan-European level in ECSL with local organisation at national level. This was the thinking behind a scheme for a network of 'national points of contact' (NPOCs). Initiatives are already underway in Italy, France, Belgium and Germany.

Adoption of the ECSL Charter

Professor Böckstiegel introduced the Preparatory Group's redraft of the proposed ECSL Charter, explaining that, although modified and improved at several points, it still pursued the goal of being a flexible and relatively informal document. It was thus suited to an

organisation the formative stage of which was not yet complete.

The document stimulated extended discussion, during which observations were made not only on the form of the document, but on more fundamental matters, such as the procedures applicable to the election of the ECSL Board. Among the amendments proposed from the floor, it was accepted to limit the Board to 10 members. The opinion was expressed by a number of participants that a move to a more formal document should occur before the first mandatory General Meeting two years hence.

Election of ECSL Board Members

Although an initial proposal to continue with the present Preparatory Group as the first ECSL Board was proposed, this idea was not accepted by the meeting. The Board members (see profiles, below) were instead elected by acclaim after a recess had allowed participants to achieve a consensus.

The ECSL Fund

The Centre having now been established, the philosophy for the funding of its activities was a matter of first concern. Board member Prof. F. Lyall explained that the ECSL Fund will be composed of members' donations. ESA has taken the lead in assuring support for the fund, but this lead needs to be supplemented by a strong commitment from the other members, including through sponsorship. With the money provided, the ECSL will be able to facilitate a growing range of research projects.

Topics for Research Projects

Dr. Lafferrandier focused on two topics for the initial phase of the ECSL research programme:

- the protection of satellite products derived from Earth observation
- the protection of intellectual property rights in space.

These subjects were generally considered promising. Proposals from the floor also attracted interest, however, including the variations between different types of legal machinery in affording protection to the use of space-derived data (specific space regulation versus trade measures), the relationship between space law and environmental protection, responsibilities of space operators under private law regimes, and the history and impact of regional space organisations on space law.

ECSL members will be canvassed on these and further suggestions they may have.

Below are brief details on the Chairman. Kevin Madders was



Karl-Heinz Böckstiegel

Since leaving full-time private practice in 1971, Prof. Böckstiegel has held Cologne University's chair of international business law and the directorship of its Institute of Air and Space Law. In addition to being the Editor of the *Zeitschrift für Luft- und Weltraumrecht*, he has authored/edited over 25 books and some 150 articles. He is Chairman of the ILA Space Law Committee and was President of the Iran-US Claims Tribunal at The Hague, 1984-88.



Michel Bourelly

Dr. Bourelly worked both with ELDO and ESRO before becoming ESA's Legal Adviser. He is now a member of the Comité de Direction of the IAF International Institute of Space Law and of the International Academy of Astronautics, while also President of the Société Française de Droit Aérien et Spatial and member of the Académie Nationale de l'Air et de l'Espace. His many publications on European space cooperation and space law span two-and-a-half decades.

Ingrid Detter de Lupis

Prof. Detter de Lupis is the Director of the Stockholm Institute for Research in International Law (SIRIL), teaches also at the London School of Economics and has recently published monographs on fundamental themes of international legal theory. She has a particular interest in military uses of outer space.

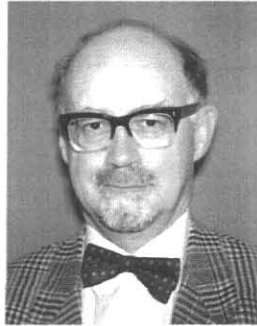
The ECSL Board

ECSL Board members elected by the 12 May meeting. Gabriel Lafferranderie is the Board representative for ESA as ECSL operations manager.



Jean-Denis Dupuy

A consultant on space law matters, Mr. Dupuy has been closely associated with Spotimage. He has published on intellectual property rights and other aspects of private space law and was technical counsellor to the Ivory Coast.



Francis Lyall

Professor of Public Law at the University of Aberdeen since 1974 and writer of books on church and state, environmental law and legal metaphors in the New Testament epistles, he began an interest in space law at the McGill Institute of Air and Space Law in 1963-64. His book 'Law and Space Telecommunications' was published in July 1989 (Dartmouth). Prof. Lyall is also a crime-novel writer.



Claudio Zanghi

Earlier Professor at Rome and Messina universities, since 1980 Prof. Zanghi has taught on international law and organisation at the Superior School of Public Administration, Rome, where he is a director of studies. As a practitioner, he has advised Italian government departments since 1964 and was involved in the drafting of such instruments as the ESA and Inmarsat Conventions and the Space Station IGA.



Ralph Kroener

Dr. Kroener is a partner in the Nolst Trenite law firm in Rotterdam where he has specialised in international trade, insurance and space law. He is active in the IBA, among other things chairing its Insurance Committee.



Bess C.M. Reijnen

Former Legal Adviser to COSPAR, Dr. Reijnen is well-known for her activities as Editor-in-Chief of the Utrecht Studies in Air and Space Law and her numerous publications. She is responsible for space-law teaching at the Utrecht Faculty of Laws and advises ESA on space-debris questions.



Tanja Zwaan

Co-director of the Leiden University International Institute of Air and Space Law, Mrs. Zwaan edited 'Space Law: Views of the Future', Kluwer, 1988. She is currently preparing a PhD thesis at Leiden on a space-law topic.



Marie Helen Pichler

Legal Assistant to the Director General of Société Européenne des Satellites (Luxembourg – the first European private satellite TV operator), Dr. Pichler published in 1987 'Copyright Problems of Satellite and Cable Television in Europe'.



Gabriel Lafferranderie

ESA Legal Adviser
Chairman of ECSL Board

In this issue

This special issue of *ECSL News* is devoted to:

- recapping outcomes of the ECSL inaugural meeting
- introducing ECSL Board members
- disseminating the ECSL Charter
- updating on ECSL activities
- giving brief details on space-law related events

From the Editors :

We shall return to the regular format of a main feature, main running news items and literature/meetings information in the next issue. Our eventual aim is to bring out issues with contributions in either of the official ESA languages (English or French), at the author's choice. A letters' column – which appealed to those attending the May meeting – will be introduced in the first issue of 1990, if we receive correspondence, of course.

Recent and Upcoming ECSL Activities

- Appointment of first young graduate (M. Spude, FRG) to ECSL secretariat duties, 1989 – 1990.
- ECSL lecture by K. Madders at Reading University, 23 June, on 'The Types of Space Law, including the Law of ESA'.
- ESA co-sponsorship with CNES of Colloquium on Space Stations and the Law as ECSL activity, 7-8 June, Paris University.

Recently-signed Space Agreements

- Third ESA-Canada general cooperation Agreement, for the period to 1999 (Montreal, 31 May).
- ESA-BBC Agreement on BBC's use of Olympus DBS capability for TV programming to Europe (Le Bourget, 14 June).
- ESA-FAO Agreement for supplying FAO with high-speed satellite communications equipment to combat locust plagues and crop failures in Africa (Rome, 16 June).

ESA Law-Formation

- ESA Council Resolutions on space debris and on European astronauts policy (28-29 June).

Publications

- H.L. van Traa-Engelman, *Commercial Utilisation of Outer Space: Legal Aspects*, Haveka, 1989.
- C.H. Reynolds & R.P. Menges, *Outer Space – Problems of Law and Policy*, Westview, 1989.



Press conference on the International Space University (ISU) given during Le Bourget Air & Space Show (15 June). An article on ISU will appear in next issue.

- F. Lyall, *Law and Space Telecommunications*, Dartmouth 1989.
- G. Lafferranderie, 'La Station spatiale internationale', RGDIP, June 1989.
- G.C.M. Reijnen & W. de Graaff, *Pollution of Outer Space in particular of the geostationary orbit*, Utrecht Studies in Air & Space Law, Martinus Nijhoff, 1989.

Responses to ECSL's Start-Up

News of ECSL's foundation was sent out by ESA's Public Relations Division to over 1000 press and media units worldwide. Trade journals in particular carried the story. We would be grateful to receive copies of any clippings you may have made.

One public statement of support is of special interest, that of Mr H.J. Allgeier of the EC Commission, speaking at the 2nd Aerospace Conference EAC'89 'Progress in Space Transportation' (held in Bonn, 22 – 24 May), who said:

'The Commission... welcomes ESA's initiative to create a European Centre for Space Law, and will participate in its activities. This could form the basis of Community action in the harmonisation of legislation.'

Membership and Further Information

The ECSL is a European organisation. Membership is open to interested persons within any ESA Member State territory who hold an ESA Member State's nationality or are permanently resident in an ESA Member State and who are employed by European firms or other entities.

Application forms for membership and other information are available from:

Mrs E. Vermeer, ECSL
8-10 rue Mario Nikis
73858 Paris Cedex 15, France

ECSL News (ISSN 1013-9036)

The European Centre for Space Law's magazine is published twice a year by the European Space Agency's Publications Division and is distributed free of charge to all readers interested in legal aspects of space activities in general and of ESA's programmes in particular.

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ECSL Charter

Considering the growth of space activities which has rendered identification of and access to documentation of relevance to space law increasingly difficult,

Considering the multidisciplinary character of space law, which includes both the rules related to access to and use of outer space and the means for organising and executing space-related activities on Earth,

Considering the steady enlargement of the space user community and its needs,

Recognising the European Space Agency's role, pursuant to its Convention, to facilitate the exchange of scientific and technical information pertaining to the fields of space research and technology and their space applications,

Considering the European Space Agency's initiative in proposing the establishment of a European Centre for Space Law,

Considering that establishment of such a Centre will improve the state of space-law research in Europe,

The participants in this initiative and the *Director General* agree on the following objectives and mechanisms:

Article 1.

The Establishment of the Centre

1. A European Centre for Space Law, hereinafter referred to as 'the Centre', is hereby established. The Centre will function under the aegis of the Director General of the European Space Agency (ESA), represented by the Legal Adviser.
2. The Centre's main administrative unit will be located at ESA Headquarters, 8-10 rue Mario-Nikis, 75015 Paris, France.
3. Membership of the Centre will be

open to natural and legal persons from ESA Member States or Associate States who are interested in the development of space law and who accept this Charter. For instance, members may be: European institutes and other academic bodies, individual academics, and members of European national administrations and space organisations; ESA itself, other European international institutions, or persons therefrom; persons from European private-sector organisations and European law firms; and private individuals from ESA Member States or Associate Members. Where an applicant does not fulfil the terms of the present paragraph, membership may nevertheless exceptionally be granted to that person by the Board specified in Article 5, below.

4. The procedure for registration as a member of the Centre will be by application to the Centre, at the invitation of the ECSL secretariat, in conformity with the terms of the present Article. The Board shall review membership every year.
5. Membership of the Centre will be without charge. However, each member shall bear his, her or its own expenses for use of technical resources.

Article 2. Purposes

The main purposes of the Centre are:

- a) to exploit and complement the efforts made and the resources available in Europe in the field of space-law research and further to develop those efforts and resources, including documentation, in a coordinated manner;
- b) to promote knowledge of and interest in the law relating to space activities through the promotion of research activities, including the dissemination of information and the organisation of workshops;
- c) to provide for exchanges, including through the organisation of colloquia

and other meetings, of information and ideas across disciplinary and national lines with the aim of improving both the technical understanding of those concerned with space-law research and the legal understanding of those concerned with the production, use and operation of space technologies;

- d) to encourage direct exchanges between the members' institutions;
- e) to identify themes related to space law in which university research and training at degree, doctoral and post-doctoral level should be encouraged;
- f) to identify areas of space-related activity in which regulation is appropriate, and to discuss and propose principles and draft norms which may then be promoted at national or European level; and
- g) to promote the establishment and development of national centres for space law research and to assist them by providing them with access to research resources throughout Europe, and by giving them technical and other advice.

Article 3. Resources and Services

1. The Centre will benefit from:
 - a) human resources, which will consist of the availability of ESA staff (in particular in the Department of Legal Affairs in the Directorate of Administration); of fellows placed at the Centre's disposal by the members; and of students and volunteers;
 - b) office space and equipment, as well as institutional and technological (especially computer network) support, which will be provided by ESA.
2. The Centre, with the aid of ESA, will offer the following services:
 - a) an updated on-line database of space law materials available in the ESA Member States and Associate Members, as well as an inventory on

space law research in Europe, including a list of theses and research work;

- b) a breakdown of the state of space-law teaching in Europe;
- c) access to and use of the ESA Information Retrieval Service (IRS) system, including for electronic mail purposes, under conditions to be determined by ESA.
- d) access to the Library at ESA HQ (and as the case may be the libraries at ESTEC, ESOC and ESRIN), under the conditions for access and use that are ordinarily applied;
- e) organisational support for research meetings and workshops and the provision of inputs for the themes to be discussed by such gatherings;
- f) production and circulation of a bulletin on space law research in Europe and on the Centre's activities, as well as other informational matter related to space law and European space organisations.

Article 4. Assistance to the Centre

1. The members of the Centre undertake to keep the Centre informed of their activities related to space law (for example, courses on space law, theses, conferences, case law) and of their resources (for example, electronic databases), as well as to provide the Centre with information for distribution to other ECSL members.
2. The members of the Centre will use their best efforts to: provide the Centre with fellows supported financially by members and with volunteers, so as to reinforce the Secretariat of the Centre; to participate in workshops concerned with matters affecting their specialist areas; and to offer exchange arrangements for receiving students and researchers in their institutions.

Article 5. Organs

1. The organs of the Centre will be the General Meeting of members, the Board and the Secretariat.
2. The Board will assist the ESA Legal Adviser in the conduct of the Centre's work. It will be composed of persons, not more than 10, elected by the General Meeting of members for a period of two years, from the different categories of the Centre's members

(academics, practitioners, the Centre's operators, representatives from national administrations and agencies and from industry, as well as students). The Board's functions will be to oversee and assist in the running of the Centre, to propose themes for research and workshops, to select among applicants for the award of grants offered by the members and ESA, and to take other steps necessary to achieve the aims of the Centre as set out in Article 2 above. The ESA Legal Adviser shall chair the Board.

3. The Board will meet at least twice a year.
4. The Secretariat of the Centre will be provided by the Legal Affairs Department of the European Space Agency, with the assistance of persons provided by members under Article 4.2 above.
5. A General Meeting of members will be convened by the Chairperson of the Board in principle every two years, to which the Board will present its report. The General Meeting will examine the orientation of the Centre's activities and questions related to the future of the Centre.

Article 6. Finance, Bursaries and Training

1. The running costs of the Centre's main administrative unit will be borne by ESA. Members of the Centre are invited to contribute to these costs through donations.
2. ESA, with contributions also from other bodies, will offer a one-year bursary annually to young lawyers performing space-law-related short periods of research in Europe. The themes for this research will be recommended by the Centre's Board to the ESA Director General for approval. Furthermore, ESA will use its best efforts to receive students from ECSL members for internship training. It is expected that national space agencies will also offer such bursaries and training. These offers will be coordinated by the Centre.
3. The Centre's budget will be administered by the ESA Director General. All monies received from members or other persons shall be held on trust by the ESA Director General for achievement of the purposes of the Centre as determined

in the present Charter. Such monies may, inter alia, be used in exercise of this trust to organise workshops, colloquia and other meetings, and to produce publications. The accounts relative to such expenditure shall be verified in accordance with the auditing procedures laid down pursuant to the ESA Financial Regulations.

Article 7. External Relations

The Centre shall promote relations with other bodies and institutions in Europe, and outside Europe, having similar objectives.

Article 8. Amendments

The present Charter may be amended at the Board's proposal. Amendments will be adopted by the General Meeting of members on a two-thirds majority vote of those members present and voting and in conformity with ESA regulations.

Article 9. Commencement of Activities

The Centre will formally commence its operations on 12 May 1989.

This version cancels and replaces that issued on 12 May 1989. (English only).