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## THE ITU TREATY ARCHITECTURE UNDER PRESSURE: UKRAINE, WRC-27, AND THE LIMITS OF REGULATORY REDESIGN

*WRC-27, scheduled for Shanghai in October–November 2027, will revise the Radio Regulations, the binding international instrument governing the use of the radio-frequency spectrum and associated satellite orbits. A doctrinal method is applied: treaty interpretation under the Vienna Convention on the Law of Treaties and the ITU constitutional framework (Arts. 4, 44, 45, 54 of the Constitution), supplemented by the Rules of Procedure and Radio Regulations Board decisions as institutional interpretive practice within a specialised regime, with a sharp distinction between *lex lata* and *lex ferenda* throughout. Ukraine’s legally strongest positions on two agenda items are identified. With regard to Agenda Item 1.5, it is argued that Resolution 14 (WRC-23) separates terminal authorisation and enforcement (Resolves 1) from the distinct question of territorial exclusion from non-GSO service areas (Resolves 2). Ukraine’s strongest position is therefore enforcement-first, relying on Article 18 RR, Resolutions 22 and 25, and RRB practice on the Starlink/Iran matter; before any new exclusion mechanism whose misuse in sovereignty and territorial-status disputes cannot be adequately constrained. With regard to Agenda Item (‘AI’) 1.7, it is argued that Resolution 256 (WRC-23) already embeds a protective logic for incumbent primary services in security-sensitive bands, so no IMT identification should proceed without completed and persuasive compatibility studies. Ukraine’s wartime regulatory practice is used as an evidentiary lens, not as *opinio juris* or custom-forming practice, but as official state conduct showing why authorisation, verification and interference control matter under conflict conditions. It is concluded that Ukraine’s most defensible WRC-27 position is enforcement-first on AI 1.5 and study-conditioned and protective on AI 1.7, within the existing ITU treaty architecture.*

**Keywords:** WRC-27, Agenda Item 1.5, Agenda Item 1.7, Ukraine, territorial authorisation, enforcement, Resolution 14, Resolution 256, Starlink, CEPT.

**Problem Statement.** Under Articles 4 and 54 of the ITU Constitution, the Radio Regulations are binding international instruments. Article 13 gives the World Radiocommunication Conference (WRC) the power to revise them. Article 44 requires radio frequencies and associated orbits to be used rationally, efficiently and economically so that states may have equitable access, and Article 45 carries on through the duty not to cause harmful interference [1]. WRC-27 will meet in Shanghai from 18 October to 12 November 2027 [2]. It brings to the surface two questions the RR must address: (1) how to respond to unauthorised NGSO terminal use without converting a compliance problem into service-area redesign, and (2) how to assess new IMT claims in bands already occupied by dense clusters of security-sensitive incumbents.

Agenda Item 1.5, under Resolution 14 (WRC-23), addresses unauthorised non-GSO earth-station operations and associated service-area questions [4]. The

legal issues it raises are three, not one: (1) territorial authorisation of transmitting earth stations, (2) the design of NGSO service areas, and (3) enforcement across borders. Agenda Item 1.7, under Resolution 256 (WRC-23), concerns possible IMT identifications in bands already burdened with military, governmental, satellite, aeronautical and safety-sensitive use [5]. In both items, the concern is not technological novelty as such, but it is how the existing treaty architecture should respond to regulatory pressure.

The political setting of WRC-27 is unusually tense. Contemporary policy commentary and congressional testimony repeatedly connect the AI 1.5 to disputes over Starlink use over Iran and Russia arguing for stronger territorial-control mechanisms. While this context does not define the formal legal scope of Agenda Item 1.5 but it does, however, explain why a seemingly technical matter has evolved into a broader geopolitical dispute over Westphalian sovereignty,



communications control, and the regulatory boundaries of the ITU framework<sup>1</sup>.

Ukraine participates in WRC-27 preparation through CEPT, which currently has 46 members [10], and is an EU candidate state whose accession negotiations formally opened on 25 June 2024 [3]. The question asked here is what positions are legally strongest for Ukraine on Agenda Items 1.5 and 1.7, given the treaty structure of the RR and the operational experience of the war.

Methodologically, the RR and WRC resolutions are treated as treaty instruments within the ITU constitutional order and interprets them in accordance with the general law of treaties. The starting point is the ordinary meaning of the relevant RR provisions and WRC resolutions, read in their systemic context and in light of the object and purpose of the ITU regime: sovereign administration of spectrum, avoidance of harmful interference, and rational, equitable and efficient use of frequencies and associated orbits. In that framework, the Rules of Procedure and RRB decisions are used here as institutional interpretive practice within a specialised regime: important confirmatory material, but neither autonomous law nor sufficient by themselves to establish customary international law [1; 23; 25; 26].

**Scholarly Context.** No integrated published scholarly analysis of Ukraine's WRC-27 position currently exists. The relevant strands are identifiable, but they do not intersect in a way that answers the present question. The subject is therefore under-theorised rather than wholly absent from the literature.

One strand concerns Starlink and armed conflict. Abels (2024) treats Starlink in Ukraine as a case of private infrastructure shaping conflict dynamics [11, p. 842–866]. Blount (2023) and Spassova (2023) place satellite communications within broader governance and harmful-interference frameworks [12, p. 3–17; 13, p. 131–142]. None of these works, however, analyses Ukraine's WRC-27 posture through the Radio Regulations or the specific agenda items examined here.

A second strand is institutional and practitioner material. The RSPG Interim Opinion on WRC-27, the CEPT Draft Brief on Agenda Item 1.5, operator materials from Eutelsat-OneWeb and SES, and NATO and EUROCONTROL workshop presentations collectively map the live debate [14–19]. These materials are not substitutes for treaty interpretation,

but they are valuable evidence of how administrations, operators, and sectoral stakeholders currently frame enforcement, service-area design, and incumbent protection. However, neither the Starlink literature nor the wider researches on armed conflicts have so far been linked systematically to ITU treaty interpretation.

**Formulation of the Article's Objectives.** The purpose of the article is to determine the legally strongest positions available to Ukraine at WRC-27 on Agenda Items 1.5 and 1.7 within the existing ITU treaty architecture. To achieve this purpose, the legal nature of the Radio Regulations and relevant WRC resolutions is analysed. Ukraine's wartime regulatory practice is examined as evidentiary state conduct rather than *opinio juris*. Agenda Item 1.5 is analysed through the distinction between enforcement and territorial exclusion while Agenda Item 1.7 is analysed through the protection of incumbent primary services and the burden of compatibility studies. As a final conclusion, Ukraine's most defensible WRC-27 position is formulated.

**Main Material.** What underscores the analytical significance of the Ukrainian case is that several issues, which remain merely prospective in other jurisdictions, have already been tested under conditions of war [11, p. 842–866].

Since Russia's full-scale invasion in February 2022, Ukraine has used low-Earth-orbit systems in two distinct but tightly linked ways: first, as communications infrastructure, with Starlink overwhelmingly dominant and OneWeb emerging as a smaller contingency alternative; and second, as space-enabled ISR infrastructure, especially through commercial Earth-observation providers such as ICEYE and other Western imagery companies.

Ukraine then moved quickly from emergency improvisation to regulation. On 20 April 2022, Ukraine's telecom regulator adopted Decision No. 31, permitting use of SpaceX Starlink subscriber terminals by all categories of users during martial law, subject to electromagnetic-compatibility requirements. In June 2022, Starlink Ukraine was publicly reported as having entered the national register of providers, and in July 2022 the State Service of Special Communications said the Starlink office had opened in Ukraine and that the system was being used as a backup link by network operators, service providers, and critical infrastructure facilities [7].

The NCEC's strategic priorities for 2024–2026 tie regulatory development to EU acquis alignment [6]. In June 2025, a Ukrainian delegation including the NCEC, the Ministry of Digital Transformation

<sup>1</sup> See Tiago Nunes and Francisco Teixeira, "Global Fight Over Who Governs Communications Satellites Heats Up", Tech Policy Press (7 August 2025); Michael Calabrese, Written Testimony before the U.S. Senate Committee on Commerce, Science, & Transportation, U.S. Leadership at WRC-2027 (17 March 2026).

and the Ukrainian State Centre of Radio Frequencies participated in the CPG27-3 process preparing the European position for WRC-27 [20]. The issues singled out included IMT development, D2D satellite connectivity, and the protection of frequencies used by the Armed Forces of Ukraine from interference by other systems. Ukraine's WRC-27 preparation therefore sits within a European coordination environment, but it is already framed domestically as a matter of national security.

On 20 April 2022, the NCEC adopted Decision No. 31 permitting Starlink terminals during martial law [7]. The decision did not suspend spectrum discipline. It expressly required electromagnetic compatibility and compliance with the RR in minimising harmful interference, while calling for proposals to amend the national spectrum-use plan. Even at the moment of greatest urgency, Ukrainian practice preserved three propositions: wartime necessity did not displace interference discipline; Starlink use remained mediated through national regulatory authority; and emergency accommodation generated an immediate impulse toward formalisation.

The same pattern appeared in later measures. On 31 October 2025, the NCEC permitted testing of Direct to Cell technology by Kyivstar in cooperation with SpaceX across most of Ukraine, but not in border areas, combat zones or temporarily occupied territories. It also required that testing not degrade terrestrial networks or create radio interference in Ukraine or neighbouring states [21]. On 28 November 2025, the NCEC described the rollout of D2C as a new stage of implementation, while still treating the service as staged, limited and conditional [22].

By early 2026, Ukraine's response had become more controlled. The Ministry of Defence announced that only authorised Starlink terminals would operate in Ukraine, in coordination with SpaceX to counter Russian drone activity [8]. Only verified and registered terminals would remain operational, all others would be disconnected, and once the first whitelists were activated, Russian terminals were blocked while Ukrainian terminals remained operational [8; 9].

Consequently, the Ukrainian public record emphasizes enforcement and administrative oversight rather than a generalized theory of exclusion within the ITU framework. These are single-state administrative acts, not *opinio juris*. What they do show is why a state under acute security pressure reaches first for terminal control before it embraces a broader remodelling of NGSO service architecture.

**Agenda Item 1.5: Enforcement Before Exclusion.** Political impulse behind Agenda Item 1.5 and

its legal structure are not the same thing. In current policy commentary, the item is commonly linked to Iranian objections to unauthorised Starlink use and to Russian support for stronger territorial controls. Resolution 14, however, keeps two tracks apart: Resolves 1 mandates studies on regulatory measures to limit unauthorised non-GSO earth-station operations. Resolves 2 separately considers measures to allow countries to be excluded from non-GSO service areas [4].

Article 18 of the RR requires government authorisation for transmitting earth stations. Resolution 22 (as revised at WRC-23) operationalises this: operations shall be carried out only if authorised by the relevant administration, and notifying administrations should limit operation to authorised territories. When unauthorised operations are detected, the notifying administration must cooperate to resolve the matter. Resolution 25 reinforces the same principle by providing that relevant satellite systems should be operable only from territories that have authorised them [4].

These instruments already treat unauthorised terminals as a question of territorial authorisation and inter-administrative cooperation. WRC-27 is not being asked to invent an enforcement system from nothing. The live question under Resolves 1 is whether the existing architecture should be tightened through geolocation, traceability, operator-side controls and cessation procedures [4].

Read systemically, Article 18 is not a free-standing licensing formality. It operates within a wider RR structure on harmful interference, remedial action and monitoring, and within the ITU constitutional duties of rational use and non-interference. The decisive legal question under Resolves 1 is therefore not whether territorial authorisation exists, since it already does, but whether WRC-27 should translate that existing rule into clearer post-notice duties of investigation, traceability, cessation and operator cooperation [1; 4; 24].

The strongest available institutional practice points in the same direction. In the Starlink/Iran matter, the Radio Regulations Board repeatedly treated transmissions from a territory where they had not been authorised as contrary to Article 18 RR, Resolution 22 and Resolution 25, and urged the notifying administration to secure immediate cessation, including remote disablement where necessary. That practice does not create a new source of law. Its significance is interpretive: within the specialised ITU regime, it confirms that the existing architecture is already being read as imposing real

remedial obligations once specific unauthorised transmissions have been documented [26].

Technical feasibility is no longer hypothetical. Eutelsat-OneWeb has described an architecture based on real-time coordinate validation against authorised territory and remote terminal deactivation where use is not authorised [16]. SES has likewise presented the capability to locate, deactivate and cease transmissions in unauthorised areas [17]. These materials are not legal authority, but they are relevant evidence that terminal-level enforcement can be implemented at scale under different network models.

Ukraine's own experience confirms this from the demand side. The 2026 whitelist regime was implemented in coordination with SpaceX and achieved its stated objective: Russian terminals were blocked while Ukrainian terminals remained operational [8; 9]. This is not a technology demonstration but it is an enforcement action under wartime conditions. The fact that it proceeded through operator coordination rather than any ITU-registry mechanism is itself evidence that the Resolves 1 approach can work in practice.

Regional preparation points in the same direction. The CEPT Draft Brief addresses Resolves 1 through a graduated set of options, emphasizing that any additional measures must be assessed in light of cost, complexity, technical feasibility, and the risk of service interruption [15]. That is a reason to test enforcement before redesigning architecture.

Territorial exclusion is different in kind. While a state may require that terminals operating within its territory be duly authorised, it does not follow that the ITU should reconfigure non-GSO service areas through a standing exclusion mechanism. The CEPT Draft Brief contrasts an opt-out model, under which the service area corresponds to illumination unless exclusion is requested, with an opt-in model requiring explicit agreement for inclusion [15].

Both models raise difficulties. CEPT notes that territorial exclusion is ineffective against unauthorised earth-station operation as such, and that later inclusion of a previously excluded territory would create significant difficulties for protection rights and coordination [15]. An opt-in default would also reverse the current logic of wide-area system design by making territorial consent the baseline condition of coverage.

The legal point does not depend on attributing the item to any one state or episode. What matters is the structural risk that a mechanism ostensibly aimed at technical non-compliance may become a wider tool of territorial service control.

Nor can RR No. 4.4 bear the weight of a general counter-argument. The Rules of Procedure construe No. 4.4 narrowly: it permits derogation from the Table of Frequency Allocations and specified other provisions only on a no-interference/no-protection basis and with continuing responsibility to eliminate harmful interference. Properly read, No. 4.4 is therefore an exceptional and conditional device. It does not displace Article 18 licensing, create a right to transmit from another state's territory, or justify weakening the existing safety and passive-service protections of the RR [24; 25].

Ukraine's wartime practice points toward enforcement and authorisation, not toward territorial exclusion. The existing RR architecture (Article 18, Resolution 22, Resolution 25 and demonstrated operator capability) is sufficient to address unauthorised terminals without creating new institutional tools whose use cannot be adequately constrained. The legal lesson is straightforward: do not let a compliance problem become a service-area architecture problem too quickly.

Ukraine should therefore favour a narrow WRC-27 outcome: clearer post-notice enforcement and evidentiary cooperation, while resisting any automatic or overly general exclusion model. That position better fits the present treaty text, the limited function of RR No. 4.4, and the way the specialised institutions of the ITU have already approached documented cases of unauthorised transmission [4; 15; 25; 26].

**Agenda Item 1.7: Incumbency, Protection, and the Burden of Proof.** Resolution 256 covers possible IMT identifications in 4,400–4,800 MHz, 7,125–8,400 MHz, and 14.8–15.35 GHz [5]. These bands carry dense military, governmental, satellite, aeronautical and safety-of-life allocations governed by specific footnotes, coordination requirements and power flux-density limits. That protective structure has legal weight. Resolution 256 itself conditions any identification on sharing and compatibility studies and requires protection of incumbent primary services, including those operating in international waters or airspace.

That protective logic is broader than Resolution 256 alone. The RR already accord specially heightened protection to distress, safety, passive and defence-relevant functions. No. 15.28 requires absolute international protection for distress and safety frequencies and for frequencies used for safety and regularity of flight; No. 15.37 requires immediate investigation and remedial action where a station interferes with a safety service; No. 5.340 prohibits

all emissions in certain passive bands; and No. 19.28 preserves national identification means for stations used for national defence. These provisions do not predetermine the outcome under Agenda Item 1.7, but they confirm that the candidate bands sit within a regulatory environment already structured by special protection norms [24].

The RSPG Interim Opinion on WRC-27 identifies the Agenda Item 1.7 candidate bands as raising EU policy concerns, particularly where they intersect with the Common Security and Defence Policy and Union Space Policy [14]. The protective logic is reinforced by stakeholder evidence. NATO's preliminary position treats all three ranges as essential to Alliance operations and does not support IMT identification in any of them [18]. EUROCONTROL identifies the same bands as important for aeronautical and safety-sensitive systems [19]. For Ukraine, these are not abstract concerns: degradation of the interference environment in such bands carries immediate operational risk.

NATO's position on 7,125–7,250 MHz is more nuanced: regulatory changes could be supported in this narrow sub-band if studies prove coexistence feasibility with no limitations on adjacent services above 7,250 MHz [18]. That graduated, study-conditioned approach does not reject engagement with IMT. It insists that the burden of proof lies on proponents of identification. No identification without completed and persuasive compatibility studies.

That formulation captures the legal logic already embedded in Resolution 256 itself. The Resolution conditions identification on completed sharing and compatibility studies and requires protection of incumbent primary services. The existing allocation framework represents accumulated regulatory commitments. A new IMT identification alters the interference environment for the entire ecosystem of coordinated services. Resolution 256 therefore places the burden on proponents to demonstrate coexistence with the full structure of existing allocations, not merely with one incumbent service in isolation, and not in a manner that erodes the RR's pre-existing special protections for safety, passive or defence-sensitive uses [5; 24].

EUROCONTROL has identified a critical evidence gap: interference studies on radar altimeters were conducted for 5G below 4.2 GHz, and data above 4.4 GHz is limited, however new altimeters compatible with a changed environment will not be available until 2030 or later [19]. EUROCONTROL also identifies the adjacent band 15.4–15.7 GHz as important for precision approach radar and detect-

and-avoid radar for remotely piloted aircraft. For Ukraine, protecting this spectrum chain is operational, not symbolic.

Resolution 256 also requires protection of stations in international waters and airspace that cannot be registered in the MIFR [5]. That clause matters because it confirms that absence of MIFR registration does not strip such platforms of protection for the purposes of the studies required under this item.

The CPM timeline creates pressure to settle compatibility questions quickly. For a state unable to conduct in-country measurements during active conflict, that pressure is especially acute. Ukraine's legally strongest position is therefore procedural as well as substantive: incomplete or asymmetric data is not a sufficient basis for identification in bands where a dense protective structure already exists.

**Conclusions.** Ukraine's most defensible WRC-27 position is to support robust enforcement against unauthorized non-GSO terminal operation under existing RR mechanisms, while opposing any new automatic ITU-level service-area exclusion mechanism that could be weaponized in territorial disputes.

Strengthening cooperative enforcement under existing rules (Article 18, Articles 15 and 16 RR, Resolution 22, Resolution 25, RRB-confirmed post-notice practice, and operator-level terminal control) addresses the unauthorised-terminal problem without creating an ITU-level exclusion mechanism that could be misused in territorial disputes. RR No. 4.4 does not unsettle that conclusion, because it is a narrow no-interference/no-protection derogation rather than a general basis for trans-territorial operation.

Ukraine's wartime practice shows the state interest is terminal control, not redesigning the international service map. Its wartime regulatory practice (from emergency accommodation through verification and whitelist-based terminal control) shows that the immediate state interest is to preserve the ability to determine which terminals operate on its territory, under what conditions, and with what security safeguards. These positions align strongly with the visible CEPT line on AI 1.5 and are not inconsistent with broader EU/RSPG caution on satellite direct-to-device and WRC-27 preparation, although detailed European regulatory convergence lies beyond the scope of the present analysis.

Ukraine's most defensible position is inferred from its wartime regulatory practice, however it does not claim any official Ukrainian WRC-27 common proposal unless such a document is later identified. An enforcement gap is identified with possible RR

compliance and due-diligence implications for notifying administrations and operators, where unauthorised NGSO terminals operate on a third state's territory and operator cooperation is incomplete. The existing RR framework supplies a basis for response. However, what remains contested is whether administrations and operators will use that framework rigorously before seeking broader institutional redesign.

Across both agenda items 1.5 and 1.7, the common issue is not technological novelty as such but the pressure to accommodate facts on the ground without destabilising the treaty structure.

On AI 1.5, the distinction between Resolves 1 and Resolves 2 is not a technicality but the organising principle. For Ukraine, those are politically and legally different. Stopping unauthorized Russian use of terminals is clearly in Ukraine's interest. Creating a broad ITU mechanism that lets a state demand exclusion of "its territory" from a non-GSO service area is dangerous because Russia could try to apply that to occupied Ukrainian territory. Thus AI 1.5 text must be without prejudice to sovereignty

and territorial-status disputes and must not allow an occupying power to compel exclusion of temporarily occupied territory from services authorized by the internationally recognized administration.

On AI 1.7 (the protective structure of existing allocations) it comes from demand for new IMT spectrum in already crowded, security-sensitive bands. Here Ukraine should insist that any IMT identification in the candidate bands remains conditional on completed compatibility studies and protection of incumbent safety, passive, space-science, fixed, aeronautical, satellite, governmental and security-sensitive uses. IMT proponents must satisfy Resolution 256's incumbency and compatibility conditions before any regulatory change is accepted [4; 5; 24; 25; 26].

In both cases, the RR already provide a path through enforcement and cooperation under existing rules for AI 1.5, and study-conditioned change under Resolution 256 for AI 1.7. Ukraine's contribution is to show, through wartime regulatory practice, why bypassing that discipline carries concrete costs.

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### **Поп-Стасів В. Г. ДОГОВІРНА АРХІТЕКТУРА МСЕ ПІД ТИСКОМ: УКРАЇНА, ВКР-27 І МЕЖІ РЕГУЛЯТОРНОГО ПЕРЕФОРМАТУВАННЯ**

*ВКР-27, яка відбудеться у Шанхаї в жовтні–листопаді 2027 р., перегляне Регламент радіозв'язку – обов'язковий міжнародно-правовий інструмент, що регулює використання радіочастотного спектра та пов'язаних супутникових орбіт. Застосовано доктринальний метод, що охоплює тлумачення міжнародних договорів відповідно до Віденської конвенції про право міжнародних договорів та конституційних засад МСЕ (ст. 4, 44, 45, 54 Статуту), доповнене Правилами процедури та рішеннями Ради Регламенту радіозв'язку як інституційною інтерпретаційною практикою в межах спеціалізованого режиму, із чітким розмежуванням *lex lata* та *lex ferenda* на всіх етапах аналізу. Визначено найбільш юридично обґрунтовані позиції України щодо двох пунктів порядку денного. Щодо пункту порядку денного 1.5 доводиться, що Резолюція 14 (ВКР-23) відокремлює питання авторизації та правозастосування стосовно наземних станцій (Resolves 1) від відмінного питання територіального виключення зі службових зон негеостационарних супутникових систем (Resolves 2). Відтак найсильніша позиція України полягає в обстоюванні пріоритету правозастосування, заснованого на статті 18 Регламенту радіозв'язку, Резолюціях 22 і 25 та практиці РРЗ у справі Starlink/Іран, над запровадженням будь-якого нового механізму виключення, зловживання яким у спорах щодо суверенітету та територіального контролю неможливо належним чином уникнути. Щодо пункту порядку денного 1.7 доводиться, що Резолюція 256 (ВКР-23) уже містить захисну логіку щодо первинних служб, які діють у чутливих з погляду безпеки смугах частот, тож жодна ідентифікація ІМТ не повинна здійснюватися без завершених і переконливих досліджень сумісності. Регуляторна практика України в умовах воєнного стану використовується як доказова призма, не як *opinio juris* чи практика, що формує звичаєве право, а як офіційна поведінка держави, що демонструє, чому авторизація, верифікація та контроль завад мають значення в умовах збройного конфлікту. Зроблено висновок, що найбільш обґрунтована позиція України на ВКР-27 полягає в тому, щоб щодо пункту 1.5 відстоювати пріоритет правозастосування, а щодо пункту 1.7 – обумовлювати подальші рішення результатами досліджень і забезпечувати захист інкумбентів у межах чинної договірної архітектури МСЕ.*

**Ключові слова:** ВКР-27, пункт порядку денного 1.5, пункт порядку денного 1.7, Україна, територіальний суверенітет, правозастосування, МСЕ Резолюція 14, МСЕ Резолюція 256, Starlink. СЕІТ.

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