

Current Trends in European National Space Legislation

European Interparliamentary Space Conference
(EISC) 2021

10 May 2021

Professor Irmgard Marboe

Department of European, International and Comparative Law, University of Vienna

Overview

- **Background: Work of UNCOPUOS on National Space Legislation**
- **Reasons to enact national space law**
- **Current European national space laws**
- **Communalities and differences**

Background:

Work of UNCOPUOS on National Space Legislation

- 2007 New Agenda Item “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space” in the Legal Subcommittee, at the initiative of the US (A/62/20)
- 2008 Establishment of a Working Group
- Work of the Working Group 2009-2012:
 - 2009 Reports of States, Evaluation in WG
 - 2010 Reports of States, Evaluation in WG, Draft Final Report of WG
 - 2011 Draft Final Report of WG
 - 2012 Final Report of WG

Final Report of WG

Part I Summary of the work conducted by the Working Group under its multiyear workplan

Part III Findings of the Working Group

Part IV Conclusions

Annex 1: National space legislation: regulative categories

UN Doc A/AC.105/C.2/101

Schematic overview of national space legislation

<http://www.oosa.unvienna.org/oosa/en/SpaceLaw/national/schematic-overview.html>

Database on National Space Legislation

UN Office of Outer Space Affairs:

<http://www.oosa.unvienna.org/oosa/en/SpaceLaw/national/state-index.html>

UN General Assembly Resolution

“Recommendations on national legislation relevant to the peaceful exploration and use of outer space”

Adopted on 13 December 2013, A/RES/68/74 by consensus

- *Preamble* refers to “the **need for consistency and predictability** with regard to the authorization and supervision of space activities and the **need for a practical regulatory system** for the involvement of **non-governmental entities**” while recognizing “the **different approaches** taken by States in dealing with various aspects of national space activities”.
- *Operative paragraphs* contain **eight “elements for consideration”** when enacting regulatory frameworks for national space activities.

Reasons to enact national space law

A – Reasons based on international space law

Responsibility (Art. VI OST)

- Prevention of breaches of the OST
- Duty to authorize and supervise non-governmental activities

Liability (Art. VII OST, Art. II and III LIAB)

- Preventing or decreasing risk of damage
- Safety standards, Space Debris Mitigation Guidelines

Registration (Art. VIII and XI OST, Art. II, III, IV REG)

- National registry needs to be established
- International registration with UNOOS needs to be ensured

B – Reasons based on **national interests**

Promoting national space industry

- Depending on national priorities (launches, exploration, remote sensing, telecommunication, resource utilization, ...)

Providing a reliable legal and economic framework

- Ensuring legal certainty/the rule of law and foreseeability
- May be important to raise funds for the activity

Establishing national institutions

- National space agency
- National registry for space objects

European national space laws

Luxemburg

Law on Space Activities (2020)

Law on the Exploration and Use of Space Resources (2017)

Finland

Act on Space Activities (2018)

Decree of the Ministry of Economic Affairs & Employment on Space Activities (2018)

United Kingdom

Space Industry Act (2018)

Outer Space Act (1986)

Denmark

Outer Space Act (2016)

Danish Executive Order on requirements for approval (2016)

Danish Outer Space Act – scope of application (2018)

Austria

Outer Space Act (2011)
Outer Space Regulation (2015)

France

Space Operations Act (2008)
Law establishing CNES (1961)

The Netherlands

Rules Concerning Space Activities and the Establishment of a Registry of Space Objects (Space Activities Act) (2007)
Decree expanding the scope of the Space Activities Act to include the control of unguided satellites (Unguided Satellites Decree) (2015)

Belgium

Law on the Activities of Launching, Flight Operations or Guidance of Space Objects (2005, as revised in 2013)

Sweden

Act on Space Activities (1982)

Decree on Space Activities (1982)

Spain

Royal Decree 278/1995, establishing a national space registry

Norway

Act on launching objects from Norwegian territory into outer space (1969)

Communalities and differences

“Elements for consideration” in UN GA of 2013 A/RES/68/74 (see also “Regulative categories” in Annex 1, UN Doc A/AC.105/C.2/101)

- (1) Definition of “space activity”
- (2) Scope of application/jurisdiction (territorial, personal)
- (3) Authorization, including competences and procedures
- (4) Conditions for authorization
- (5) Supervision and monitoring compliance
- (6) Registration, including establishment of a national registry
- (7) Insurance and indemnification
- (8) Transfer of ownership/supervision and control

Definition of “space activity”

Luxemburg (2020)

Art. 2 (1): any activity consisting in **launching** or **attempting to launch** one or more space objects into outer space or in **controlling** one or more space objects or in **using them** during a stay in outer space, including the **return to Earth**, as well as **any other activity taking place in outer space** for which the Grand Duchy of Luxembourg is likely to be held internationally liable;

Finland (2018)

Section 4 (1): **launching** a space object into outer space, **operation** and other **control** of the space object in outer space, as well as measures to **return** the space object to the earth;

Denmark (2016)

Art. 4 (1): **Launching** space objects **into outer space**; **operation, control** and **return** of space objects to Earth; as well as **other essential activities** in this connection.

Art. 4 (4): “Outer space” means: **Space above the altitude of 100 km above sea level.**

Scope of application/jurisdiction (territorial, personal)

Luxemburg (2020)

Art. 1 (1) and (2): space activities carried **from the territory of Luxembourg** or by **means of installations under the control and jurisdiction** of Luxembourg; or in the territory of a foreign State or an area not subject to the sovereignty of a State **by natural persons of Luxembourg nationality** or by **legal persons** established under Luxembourg law.

Finland (2018)

Section (1): space activities carried on **within the territory of Finland**; outside the territory of Finland if they are carried on (1) on board a **vessel or aircraft** registered in Finland; or (2) by a **Finnish citizen or a legal person** incorporated in Finland.

Denmark (2016)

Art. 1 (2): space activities carried out **within the Danish State**; carried out outside the Danish state (1) **on Danish craft or facilities**; or (2) **by Danish operators**.

Insurance and indemnification

Luxemburg (2020)

Art. 6 (4): **specify the coverage of risks of the space activity** by the operator's own financial resources, by an **insurance policy** arranged with an insurance company, **or** by guarantee issued by credit institution; (**no limitation of operator's liability**, Art. 4)

Finland (2018)

Section 7 and 8: **State's right of recourse** up to 60 million euros; operator shall take out an **insurance at least up to 60 million euros; waiver is possible** by Ministry, if corresponding insurance of launching company covers the liability **or** if risk of damage is accepted by the Ministry based on a risk assessment;

Denmark (2016)

Art. 11 (1) and (2): Operator is **liable for damage** caused by a space object on Earth and to aircraft in flight and under **general rules of Danish law** on compensation;

Art. 12 (1): **State's right of recourse** against operator as far as operator is liable;

Art. 13 (1): **Minister may require operator to take out insurance** or provide security to cover liability otherwise as a **condition for granting approval** for a space activity

Thank you very much for your attention!

Prof. Dr. Irmgard Marboe
Department of European, International and Comparative Law
Section for International Relations
Faculty of Law
University of Vienna
Schottenbastei 10-16, 1010 Vienna
irmgard.marboe@univie.ac.at
<https://eur-int-comp-law.univie.ac.at/team/marboe-irmgard/>