

Appropriate regulations for the use of space services

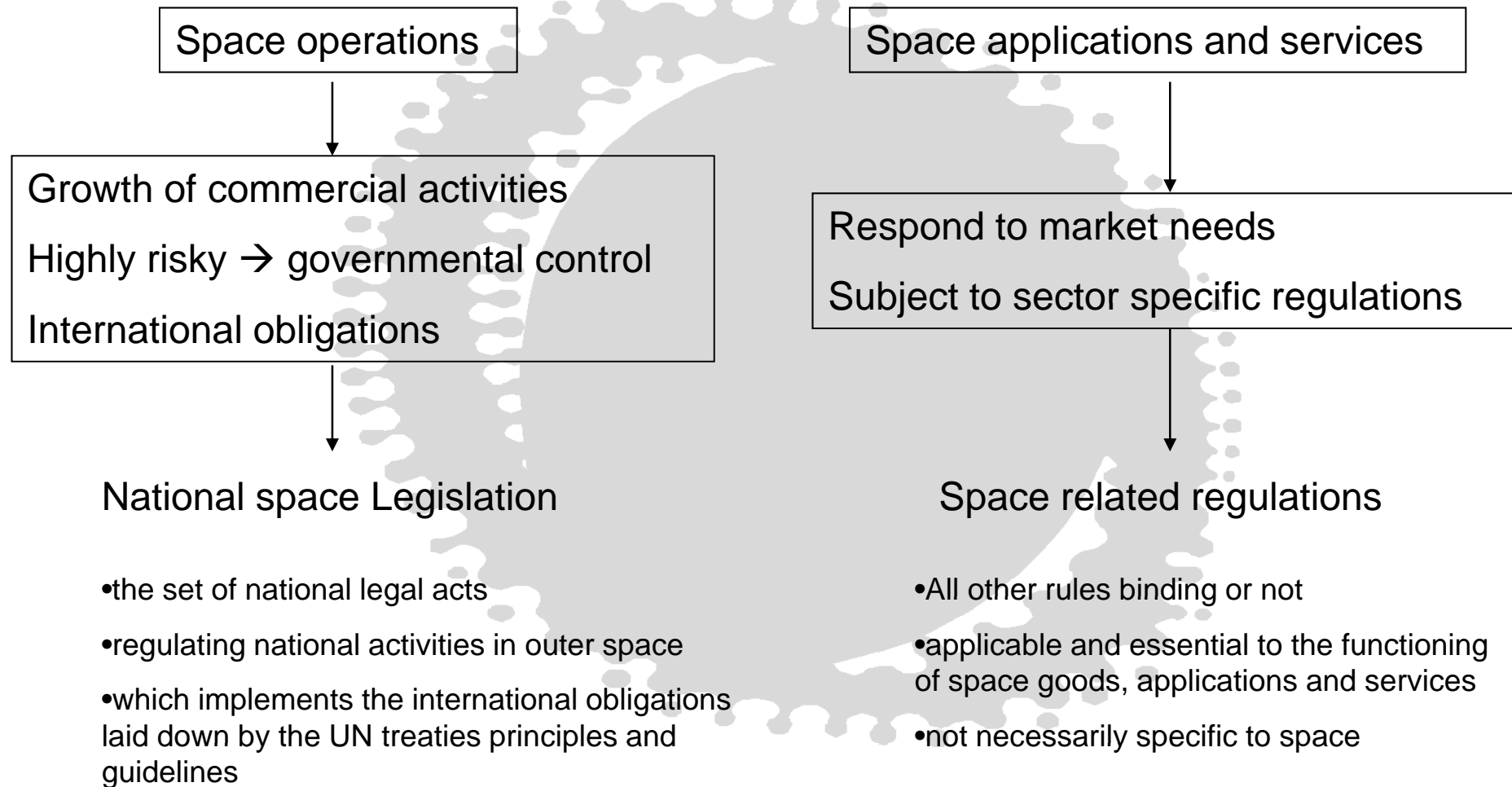
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Matxalen Sánchez Aranzamendi
Resident Fellow

Regulations a key element for space

- Essential for balancing national interests
- Space regulation facilitators of space services
- Key support for a competitive space sector
- Space as a strategic competence of the EU

Two levels of regulation



Types of legislation in Europe

Public to private allocation of responsibility depends on the development of national commercial activities

<u>Types</u>	<u>Activity development degree</u>	<u>Examples</u>
<i>Ad hoc</i>	<i>Hypothetical</i>	Swedish Act on Space Activities (1982) Swedish implementing decree on Space Activities (1982)
<i>Extensive but non-exhaustive</i>	<i>Potential</i>	Belgian Law on the Activities of Launching, Flight Operations or Guidance of Space Objects (2005) Dutch Space Activities Act (2006)
<i>Extensive and exhaustive</i>	<i>Real</i>	French Law relating to space operations (2008) and Decree on authorisation (2009)

Different states, different reasons

Sweden: Early adoption, no expertise, no immediate private activity envisaged

UK: Adoption with the privatisation of Inmarsat, no expertise

Belgium: Seat of many relevant companies and active in ESA, avoidance of potential liability

The Netherlands: Envisaging commercial space activities, no expertise

France: The French paradox, mirrors existing contractual practice

Partial regimes

Germany: Remote sensing

Spain: Registration, space tourism?

Consequences for every country

General

- Deterrent for the establishment of activities
- Non-competitiveness vis a vis more lenient/non-existing regimes
- Polarisation of the market
- Create national champions, foreclose markets
- Open legislations may favour dominant companies/may attract other companies

Authorisation related

- Uncertainty whether authorisation will be granted
- Reformulation of business culture

Consequences for every country

Liability and Insurance

- Risk of passing unlimited liability onto commercial actors
- No insurer can bear unlimited liability and may let commercial actors out of business
- Liability caps improve competitiveness.

Liability and state warranty

Who pays over the liability cap? Some States foresee State indemnification



The European space competence

- The EU is not party to the UN treaties = International Obligations are not binding on the EU
- Any harmonisation of national space legislation is precluded (Art. 189.2 TFEU)
- Space is a shared competence without preemption (Art. 4.3 TFEU)

No EU Space competence?!

The European space competence

- Without prejudice to other provisions → Internal market Art. 114 TFEU + Art. 26 TFEU
- Promote research, technological development and industrial competitiveness



Guidelines for space legislation

The new framework may contain:

- safety standards
- a coherent authorisation procedure
- a coherent system of licences applicable throughout the Union and adapted to different types of operators and different types of operations
- a coherent system to calculate insurance obligations at EU level
- a coherent framework for liability establishing parameters to calculate liability caps and forms of cross waiver liability

It may also provide for the technical expertise for authorisation and supervision as well as procedural guidelines

Space regulations in Europe

Guidelines

➡ Authorisation procedures, insurance and liability requirements

Data Policy

➡ Standardised interoperable data

Radiofrequency regulation

➡ Adequate frequency allocation, management

Export Control

➡ Facilitate technology transfer in the internal market

Standardisation

➡ Development of common standards for technical interoperability



A new European scenario

Aims:

- Avoid unbalanced and distorted internal market
- Support a strong position in the international community
- Ensure independent access to space
- Support economic competitiveness
- Support development of space based markets



Thinking ahead:

The EU might take further action in space with:

- harmonisation in elements that typically belong to the functioning of the internal market, e.g. safety standards
- tools such as the OMC for authorisation and licensing mechanisms and liability questions

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