
CONFERENCES AND REPORTS

SYMPOSIUM ON “THE GOLDEN AGE OF EUROPEAN SPACE REGULATION”

**ICON•S Annual Congress 2024, IE LAW School, Madrid, Spain
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Space law in Europe has been in a process of turbulent changes. In several States, new national space legislation has been adopted to address challenges arising from the activities in space. In the last decade, this has been the case in Denmark (2016), Greece (2017), Finland (2018), Portugal (2019), the Grand Duchy of Luxembourg (2020) and Slovenia (2022). Quite recently (2023), both Cyprus and the Principality of Liechtenstein have adopted their own space acts. Legislative activities towards adopting national space acts are currently pending in the Federal Republic of Germany, in Latvia and in Spain. In Poland, the draft act on space activities was published in the list of legislative and program works of the Council of Ministers on 26 February 2024, with the planned date of adoption by the Council of Ministers in the third quarter of 2024. Last June, the Italian Council of Ministers adopted a draft law to be examined by Parliament. France recently undertook the update of its national legal framework, including its Law of 2008 on space activities. On 28 June 2024, French lawmakers released a decree and two orders on authorization and technical regulations applicable to space activities. All these legislative activities do reflect the challenges, as arising in the New Space Era, where commercialization of space exploration has attracted massive interest from the space private sector, including emerging start-ups and various innovators.

At the same time, a legislative initiative to address space activities has been announced by the European Union (EU). In her letter of intent of 13 September 2023 to the President of the European Parliament, and to the Presidency of the Council of the EU, the President of the Commission Ursula von der Leyen included a proposal on an EU Space Law as one of her key initiatives for the coming years¹. In the Commission work programme of 2024 published on 17 October 2023, the Commission announced a legislative initiative, was initially scheduled to be adopted during the first quarter of 2024. It has been announced that the newly proposed EU Space Law will provide a common framework for resilience, safety, and sustainability in outer space instead of, which would ensure a consistent and EU-wide approach. The fact is, however, that further work on the text of the prospective EU Space Law has been postponed in 2024. Having said this, it is important to stress that in several cases, the Member States hesitate to adopt their own national legislation due to the pending preparations of a new framework at the EU level.²

Despite the current postponement of the EU Space Law, one may certainly argue that we witness a kind of golden age of space law in Europe, also due to the fact that the European Union is developing its own outer space policies³, which are implemented by EU bodies (in particular, by EUSPA)⁴,

¹ EU space law, In “A Europe Fit for the Digital Age”, European Parliament website, Legislative Train Schedule, 2024.

² This has been currently also the case of the Czech Republic and Italy.

³ CELLERINO, C. EU Space Policy and Strategic Autonomy: Tackling Legal Complexities in the Enhancement of the Security and Defence Dimension of the Union in Space. *European Papers*. 2023, Vol. 8, No. 2, European Forum, Insight, pp. 487–501.

⁴ EU Agency for the Space Programme.

whereas, previously, European space objectives have always been pursued by the European Space Agency (ESA). In this context, one may also clearly observe that while governance of space activities used to represent a domain of international public law in the past, the content of the newly adopted national acts has been focused on issues of authorization by administrative authorities, registration of space object and liability channelling to the authorization holder. This emerging regulation of space activities in Europe attracts the interest of scholars both from the field of EU law and administrative law.

This interest triggered the idea of organizing a symposium entitled “The Golden Age of European Space Regulation” under the umbrella of the ICON•S⁵ Annual Congress 2024, which was hosted by the IE Law School in Madrid, Spain, from 8 to 10 July 2024 and was devoted to “The Future of Public Law: Resilience, Sustainability and Artificial Intelligence”. The symposium on space law as such took place on 10 July 2024 and was chaired by **Professor Aldo Sandulli** (Law School, LUISS Guido Carli University). The aim of this symposium was twofold. Firstly, to discuss topical issues, arising in the field of space law in Europe. Secondly, to present European Space Law as an emerging, albeit integral part of public law in Europe.

After the introductory comments by the chair, aimed at emphasising how the regulation of outer space is intended to give certainty to private economic operators and to develop rules to enable the construction of dual-use infrastructures with particular security and defence purposes, a presentation entitled “EU, ESA and the Member States after the European Space Law” was held by **Maria Elena De Maestri** and **Chiara Cellerino** (Department of Law, University of Genoa). In their presentation, the speakers outlined the background and the reasons for the very recent legislative initiative of the European Commission to establish a regulatory framework for space activities within the European Union. In the presentation, the speakers paid attention to three main issues. (i) Firstly, the potential content of the prospective EU Space Law was discussed. In this respect, the speakers identified, that the focus of the future legislation may either focus on both substantive and procedural issues or be restricted to purely procedural issues of authorisation issuing as such. In this respect, the speakers raised several questions relating to a pure procedural harmonisation under the umbrella of the EU and pleaded for a substantive approach, covering minimum safety standards. (ii) Secondly, the speakers also addressed the challenges, that one may expect to arise in the relation between the already adopted national space acts in numerous Member States and the new EU Space law. (iii) Thirdly, the speakers also paid attention to future relations between the European Space Agency (ESA) and the EU, which may become more complex if the new EU Space Law is adopted.

The presentation, entitled “*Beyond the Outer Space Treaty: Filling Gaps with National and Regional Space Laws*” was held by **Andrea Capurso** (Law School, LUISS Guido Carli University). In his presentation, the speaker addressed certain thorny issues of the relations between the existing instruments of international public law and the newly emerging national frameworks on the other. As paradigms of these challenging relations, he mentioned the following facts: (i) Firstly, he pointed out that four countries worldwide⁶ have adopted their own national legislation on space mining so far. Pursuant to these national laws, if a private enterprise obtains a specific authorization envisaged in their national framework, it can go to the Moon or on other celestial bodies, extract the resources and commercialize it. At the same time, an agreement on how space mining will be performed, under which rules, which conditions have been still absent in international public law. (ii) A very similar situation has been witnessed with respect to the governing of space activities by national space acts. The newly adopted national space acts do govern the issues of sustainability requirements for auth-

⁵ International Society of Public Law.

⁶ USA (2015), the Grand Duchy of Luxembourg (2017), the United Arab Emirates (2019) and Japan (2021).

orizing satellite operations, the liability caps for damages caused by private space objects, and the choice of insurance coverage for operators. Regulating these issues exclusively by national legislation implies fragmentation. In this respect, the speaker argued that the recent developments in space law basically reflect the unilateral vision of some countries, especially if they are the most advanced in a certain field. Further, the speaker has identified the tendency for these visions to become predominant, setting precedents and influencing the future legal framework for space resource utilization on a global scale. In this respect, he identified the prospective EU initiative (regional space law) as a viable *quid pro quo* to achieve rules, which will not entirely reflect the visions of one, or a few particular countries.

The next presentation was held by **Laetitia Cesari** (Faculty of Law, Economics and Finance, University of Luxembourg). Being entitled “*European Space Law: An Impact on National Authorization Practice*”, it focused on how the draft of the prospective EU Space Law EU fits into the international legal framework. She reminded that several Member States are party to the international treaties on space activities and already have space-related legislation, concerning the granting of licences authorising space operations, and the responsibilities linked to non-State activities, from the launch phase to the decommission of space objects at the end of their life, including operations and the management of radio frequencies. To ensure a degree of consistency and predictability in space activities, the European Union has begun work on a draft EU Space Law to ensure legal certainty and foster the competitiveness of the European single market. The speaker explained that this framework involves three main pillars: (i) sustainability, (ii) resilience and (iii) safety. The EU Commission carried out consultations with stakeholders in space activities on the choice of the most appropriate legal instrument and how it should apply to both EU and non-EU entities. While discussing the most pressing concerns, the EU Commission considered space traffic management, the EU supply chain’s resiliency, the qualification of space systems as critical infrastructure, as well as the legal changes stemming from new activities such as in-orbit services, and existing concerns regarding cybersecurity risks and threats. The European Commission is also pondering whether this framework should be non-binding, binding, or a combination of a binding legal instrument supplemented by voluntary measures and, potentially, be followed by a series of international agreements between the European Union and third countries.⁷

Lastly, **Professor Jakub Handrlica** (Faculty of Law, Charles University in Prague) contributed to the discussion on emerging space law in Europe with a presentation, entitled “*Charting the course towards European nuclear use in the space*”. While the above-mentioned presentations aimed to discuss the topical issue of space exploration from the perspective of the EU, the presentation aimed to address the issue from the viewpoint of the European Atomic Energy Community (Euratom). With respect to the recently announced plans of the USA, the United Kingdom and the People’s Republic of China to use nuclear energy for powering a lunar base, the presentation addressed arguments against and in favour of Euratom’s involvement in the prospective nuclear space exploration. In particular, the speaker pointed out the potential of Euratom for the coordination and support of research in the field of nuclear applications intended for space use. Also, the field of nuclear safety and a prospective framework for compensation of damages were identified as fields for Euratom’s future involvement. In this respect, it was highlighted that the notion of strategic autonomy has been not only relevant with respect to the EU’s involvement in space exploration. With respect to the very recent nuclear efforts of the USA, the United Kingdom and the People’s Republic of China in space, the notion of strategic autonomy is also relevant for the field, governed by the Euratom.

⁷ CESARI, L. *Developing an EU Space Law: the process of harmonising national regulations*. Montreal: McGill Institute of Air & Space Law, 2024.

At this place, a great appreciation must be expressed to the ICON•S for providing the opportunity to discuss topical issues of space law in Europe under the umbrella of the Annual Congress. The symposium undeniably enriched the content of the Congress and added a different, albeit important, perspective of recent public law in Europe.

Having said this and considering space law in Europe to be a dynamic field of law, the speakers envisage to continue in their research with a next prospective panel to be held at the Charles University in Prague in September 2025.

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