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**Committee on the Peaceful  
Uses of Outer Space**  
Legal Subcommittee  
Fifty-fifth session  
Vienna, 4-15 April 2016  
Item 8 of the provisional agenda\*  
**National legislation relevant to the peaceful  
exploration and use of outer space**

## **The European Space Agency and the promotion of national space legislation**

### **1. Introductory remarks: observations with regard to the development of national space legislation**

It can be witnessed that a growing number of States are engaged in the creation of legal and regulatory frameworks for the safe and orderly conduct of space activities carried on by governmental agencies or by non-governmental entities under their jurisdiction. States seek to tailor these frameworks in such a way that they underpin and sustain the development of space activities whilst assuring that they are carried out in conformity with international law in general and the provisions set forth in the UN space treaties in particular. In doing so, States may revert to examples of domestic space laws in force and experiences related to their implementation. They may also take into account guidance provided in the UN General Assembly resolution 68/74 of 11 December 2013 “Recommendations on national legislation relevant to the peaceful exploration and use of outer space”, as well as from models for the

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development of national space legislation including the Sofia Guidelines for a Model Law on National Space Legislation of the International Law Association.

There appears to be a link between the increasing number and diversity of governmental and non-governmental space actors as well as the evolving nature of space activities on the one hand and the noticeable increase in activities relating to national space legislation on the other hand. Against this background, the European Space Agency (ESA) assumes a role of information provision, advice and assistance that is explained in the following.

## **2. ESA and the promotion of cooperation, information exchange and advice**

ESA may support the development, implementation and application of national space legislation at the request of Member States, where appropriate and in line with the rules and procedures of the Agency and with other applicable norms. As an international intergovernmental organisation with 22 Member States, several cooperating States and international cooperation partners in Europe and beyond, ESA is carrying out a wide range of activities. The roles of ESA in the promotion of cooperation, in information exchange and in delivering advice and assistance to its Member States are provided for in the Agency's founding document — the Convention for the Establishment of a European Space Agency — pursuant to which ESA:

- shall promote cooperation among European States in space research, technology and their space applications, inter alia by recommending space objectives to the Member States (Article II);
- shall facilitate, together with Member States, the exchange of scientific and technical information (Article III);
- shall ensure education, collect relevant information and disseminate it to Member States (Article V.1);
- shall provide advice and assistance for the harmonisation of international and national programmes (Article V.1);
- may carry out operational activities for operating agencies, such as launching, placing in orbit and control of operational application satellites (Article V.2);
- shall, without prejudice to its own activities and programmes, make its facilities available, at the cost of the State concerned, to any Member State that asks to use them for its own programmes but within the purpose of the Agency (Article IX.1);
- may assist one or more Member States wishing to engage in a project outside the activities and programmes of ESA but within its purpose (Article IX.2);

- may cooperate with other international organisations and institutions and with Governments, organisations and institutions of non-member States, and conclude agreements with them to this effect (Article XIV.1).

Based on its mandate and competences as provided for by the ESA Convention, the Agency seeks to respond to requests for advice and assistance in the context of the development, implementation and application of national space legislation.

### **3. The activities of ESA with regard to national space legislation**

Since its inception, ESA has been involved in the development and execution of space programmes and providing for cooperation among its Member States to this end. This allows ESA to provide advice and assistance with regard to national space legislation along four major axes:

- *experience in the development and conduct of space missions*: as a space agency, ESA is familiar with the specificities relating to space missions, including their physical, technical and non-technical boundary aspects.
- *knowledge of the space sectors in ESA Member States and beyond*: as an intergovernmental organisation, ESA is familiar with the space actors and industrial structures in and across its Member States and beyond, as well as related administrative and normative structures.
- *legal advice*: ESA provides legal services at institutional and programmatic level and towards its Member States, including: responding to the Agency's obligations rooted in international law, providing for the appropriate programmatic framework for its activities, monitoring State practice and contributing to legal research and development.
- *technical assistance*: ESA possesses expertise and assets in technical domains relating to space activities, including space project management, space system development and operations, compliance verification and control and the development and application of technical and quality standards; it operates technical facilities and participates in technical coordination mechanisms.

Along these axes, ESA may provide advice and assistance with respect to national space legislation. Experience shows that this is of particular interest for Member States which may not be in a position to resort to such expertise or technical capabilities at national level.

#### **4. Recent practical examples**

A number of ESA Member States have engaged the Agency in order to benefit from its advice and assistance in support of the development and implementation of national space legislation, in particular related to: questions of the authorisation and continuing supervision of space activities, questions related to the documentation requested from or provided by space mission owners or operators; technical aspects of a satellite, its associated systems and operational procedures; the observance of applicable technical standards, recommendations and guidelines; the technical or practical suitability of the terms and conditions under national authorisation and supervision processes; and advice for the implementation of legal norms and/or non-legally binding guidelines and standards.

In delivering adequate responses to requests for legal and technical expertise, advice and assistance it has to be kept in mind that ESA cannot take on any legal competence, authority or responsibility with regard to the authorisation, certification or supervision of space activities under a national legal framework, nor act beyond the boundaries set by its own legal framework. This framework, however, leaves ample room for sharing knowledge, expertise and experience for the benefit and in the interest of States and their appropriate regulation of space activities.

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