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FORUM-SELECTION CLAUSES IN SUBORBITAL SPACE TOURISM CONTRACTS AND EU LAW

Abstract

Suborbital space tourism flights open space to the wide public. Such flights will involve operators operating from different countries and carrying spaceflight participants (SFPs) of various nationalities. To minimize the cost and risk of litigation, operators are expected to use forum-selection clauses in their contracts with SFPs. These clauses designate the courts of a particular State, mostly the State of the operator's main place of business, as competent to resolve any disputes arising from or in relation to the contract. This paper examines the European Community (EC) law on such clauses, *de lege lata* and *de lege ferenda*. The topics under examination include the validity requirements of jurisdictional clauses, their practical consequences for operators and SFPs, and the policies behind the relevant provisions, with special regard to the particularities of consumer protection. It is concluded that, *de lege lata*, mandatory provisions of EC law on consumer protection could play a significant role in determining the competent court, irrespective of the content of jurisdictional clauses. *De lege ferenda*, special rules on space tourism flights would be useful, but not absolutely necessary, as problems could be solved with appropriate interpretation of the existing rules.