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THE REGULATION OF SPACE TOURISM AND ITS REPERCUSSIONS FOR THE AIR-SPACE BOUNDARY

Abstract

This article is inspired by a recent paradox in space law. On the one hand, space tourism operators sell what they call trips to space based on their spacecraft's capacity to take passengers - called space tourists, spaceflight participants or even astronauts - to a certain altitude above the surface of the earth. In this respect, altitudes of 80 and 100 kilometres are often mentioned. On the other hand, whether there is a fixed boundary between airspace and outer space and at what altitude such boundary should lie remains an unsettled question in international space law. Compounding the confusion, it is our assertion that the development of commercial space activities such as suborbital space tourism, along with the rules and regulations developed to govern them, instead of being based on a pre-existing boundary criterion, actively influences the understanding and the possible settling of the boundary question. Indeed, suborbital space tourism is the prime example of an activity that narrows the divide between air flight and spaceflight and may in that capacity also act as a bridge-builder between air law and space law. This article therefore sets out to examine how the development of national and international rules and regulations for the space tourism sector may be influential with respect to the evolving relationship between air law and space law. Such regulations include national space laws, but also liability and insurance rules, air and space traffic management rules and financial aspects of commercial space operations.