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NEW SPACE ACTIVITIES AND LEGISLATION: A GENERAL OVERVIEW WITH A SPECIFIC
REFERENCE TO THE ONGOING DEBATE IN ITALY

Abstract

The Outer Space Treaty (OST) is the most important instrument of international space law, which sets the essential principles governing the activities of exploration and use of Outer Space. Among those principles, Art. VI of the OST provides for the international responsibility of States for national space activities, whether such activities are carried out by governmental or non-governmental entities. This principle has paved the way for the private sector to conduct space activities, provided that authorisation and continuing supervision by the “appropriate State” is ensured. The detailed regulations relevant to authorization and continuing supervision of States over the activities of their private operators, can be implemented either through non-legislative means, such as agreements, contracts or company shares ownership or, as in the majority of cases, by means of specific national space legislations. In light of the increasing number of private and commercial actors engaged in space programs in recent years, a growing number of States has decided to adopt national space legislation in order to meet their international obligations. Moreover, national space legislations enable States to take into account recommendations which are set out in various non legally binding international instruments, adopted or recognized by the General Assembly in its resolutions, which support space law Treaties and address specific issues. The awareness on the major developments of space technology and the diversification of space actors, makes it critical to find a right balance between the aspiration of those new actors to undertake space programs and the concerns of preserving the sustainability of space activities. In view of the above, this paper aims to present Italian legislative framework in the space field and the current debate in this sector. In particular, the work will focus on the opportunities that new space activities offer to non-governmental entities to join the peaceful uses of outer space, both at national and international level. Reflexions will be presented on the advisability to complement and enhance the current national regulations and on the main objectives that a possible comprehensive national space law should attain. Finally, considerations will be offered on if and how legislative measures may support the growth of new space activities.