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Università Sapienza di Roma
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The Evolution of Space Activities A New Italian Legislation?

By Prof. Sergio MARCHISIO

Professor of International and Space Law, University La Sapienza of Rome -
Member of the Board of Directors of the Italian Space Agency, Chairman of the
European Centre for Space Law (ECSL/ESA), Paris.

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1. The presentation will discuss whether it is appropriate to adopt in Italy a new legislation concerning space activities and, in the affirmative, what should be the content of such a legislation. In order to accurately answer to this question, it is important: 1) to identify the existing and future needs; 2) to compare relevant national legislation; 3) to define the content of an Italian legislation on this issue. Space activities have profoundly changed since the adoption of the Outer Space Treaty (OST) in 1967. Nowadays, the active participation of private operators and universities, and the interest showed by private companies toward new space activities, require a strong need for legal certainty. According to Art. VI of the OST, States are responsible for their national activities in outer space, whether such activities are carried on by governmental agencies or by private entities. Activities of non-governmental entities in outer space are subject to authorization and continuing supervision by the appropriate State.

2. Around 30 States have adopted legal frameworks to define criteria and procedures to authorize and supervise private entities, with different approaches: 1) the adoption of a comprehensive law to cover all possible space activities, such as the French Loi relative aux opérations spatiales, 2008; 2) a sector-based approach, as in the case of the United States (launch activities, telecommunications, remote sensing and so on). In some States, a process of revision is carried out to cope with new space activities, as in the cases of UK and the Netherlands.

3. Italy, which ratified four of the UN Space Treaties, has adopted some pieces of legislation on space activities. In light of new activities and emerging non-governmental actors, it seems now appropriate – in the author's view – to adopt new rules applicable to space activities, in order to foster the participation of private actors, and to promote safety, security and sustainability of space activities. Regarding the content of a national legislation, the building blocks already defined by COPUOS and GA resolution 68/74 of 2013 should be taken into account. An Italian legislation on space activities should aim at establishing a regime for authorization and control of space activities and at filling the existing gaps.

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