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ITALIAN SPACE LEGISLATION BETWEEN INTERNATIONAL OBLIGATIONS AND EU LAW

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ABSTRACT

From the standpoint of international law States are generally free as to the manner in which, domestically, they put themselves in the position to meet their international obligations. This is the case for the obligations deriving from the UN Treaties on Outer Space.
These obligations shall be implemented by States parties in their domestic legal order by enacting, when necessary, specific legislation.
The Italian model of national space legislation is characterised on one hand, by a *de lege ferenda* process concerning the first building block and, on the other hand, by a special law concerning the indemnification aspects. A draft bill has been recently submitted to the Council of Ministers, concerning the authorization of the ratification of the 1975 Registration Convention, and the enactment of norms regulating the registration of space objects and the authorization and supervision mechanisms for private national activities.
The second building block is partially covered by Law 23 of 25 January 1983 on compensation of damage caused by space objects, which is largely inspired by the norms and procedures of general international law concerning diplomatic protection, broadening the State's obligation as for the indemnification of victims. Finally, the Italian situation cannot be assessed without making a reference to the legal framework of the European Union, since the ongoing involvement of the EU in space matters would certainly affect the future prospects of national space legislation in European countries.

1. A well established rule of general international law, codified in Articles 26 and 27 of the 1969 Vienna Convention on the Law of Treaties, provides that States must perform in good faith treaties in force binding upon them and that they may not invoke the provisions of their internal law as justification for their failure to perform them. Although the way in which international law applies within a State is a matter regulated by the law of that State, the outcome affects the State's position in international law. In particular, international law requires that States fulfil their obligations and they will be held responsible if they do not.
From the standpoint of international law States are generally free as to the manner in which, domestically, they put themselves in

the position to meet their international obligations; the choice between the direct reception and application of international law, or its transformation into national law by way of statute, is a matter of indifference, as is the choice between the various forms of legislation, common law, or administrative action as the means for giving effect to international obligations. In this respect, we can say, on the one hand, that every State can choose different legal techniques for implementing its treaty obligations in its internal law, and on the other hand, that often international treaties are not fully self-executing and they may require implementing and complementing national legislation.

This is the case for the United Nations treaties on outer space, mainly the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space (OST), the 1972 Convention on Liability for Damage caused by Space Objects and the 1975 Convention on Registration of Objects Launched into Outer Space. A special significance must be attached to the principle contained in Article VI of the OST on international responsibility of States for all national space activities, whether such activities are carried out by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions of the Treaty. This principle encompasses in my view all the legal consequences of national activities in outer space, as foreseen by international space law, namely the obligation of reparation in case of violations of international obligations by public or private entities; the obligation to compensate damage according to the special regime set forth in Article VII and in the 1972 Convention; the obligation of ensuring that national activities in outer space are carried on in conformity with the provisions set forth in the OST and, consequently, the obligation for States to take legislative action at the national level to answer for private space activities covered by their international responsibility and to the legal consequences thereof.

The adoption of national legal provisions on space activities could indeed benefit the country concerned in multiple ways. For this reason, the most recent achievement of the COPUOS Legal Subcommittee, the draft resolution on the application of the concept of the "launching State", adopted by consensus on June 2004 in order to be submitted for final approval to the General Assembly, recommends States conducting space activities, in fulfilling their international obligations under UN treaties on outer space, to consider enacting and implementing national laws authorizing and providing continuing supervision of the activities of non-governmental entities under their jurisdiction. I would like to underline that this text refers indeed to a more general criterion than that of the nationality of private space actors, since the notion of jurisdiction means, in international law, the power of a State to exercise its sovereignty and authority and is based on the principle of effectiveness. In this sense, jurisdiction is a term that recurs very often in the UN space treaties and in other international treaties (human rights, disarmament). In this vein, it is not necessary for a stable legal relationship to be established, such as "nationality"; it is sufficient for the State to be able to exercise a certain power in respect of the individual.

Presently, several States have enacted national space legislation according to different models and with different contents, though often inspired by common principles. Normally, the minimum content of such national legislation comprises the authorization and supervision of space activities, with regard to the principles established by the OST; the setting up of a national registry for space objects and an indemnification regulation. While more developed national space legislation treats other relevant issues, like intellectual property right matters or financial security, there is a need for further enhancement dealing with

such issues as the involvement of private entities and the impact of international co-operation at the domestic level. Specific suggestions for "building blocks" of which all national space laws should be composed and for harmonisation of national legislation and practices have been presented by scientific instances, as the Project 2001 recommendations.

In Europe, the current situation is that only a few European Union (EU) Member States have enacted specific space legislation (United Kingdom and Sweden), one State has a peculiar, indirect legal mechanism for authorizing space activities (France), another Member State has covered the matter of indemnification for damages caused by space objects (Italy) while others, namely Germany, Italy, France and Belgium, are in the drafting process for a national space legislation which addresses authorization and licensing procedures.

My paper deals specifically with the Italian legislation on space activities. As this session focuses on new developments at the level of national space legislation, I would like to say that the Italian domestic law is at present characterised by a *de lege ferenda* process concerning the registration and the authorisation and supervision regulation, on the one hand, and by a special law, already in force, concerning the indemnification of damage caused by space objects, on the other hand. In this sense, I must say that it is my intention to cover not only the new developments, in line with the theme of this session, but also to provide an insight into the existing rules, which are insufficiently known at the international level and deserve perhaps some attention within our discussion.

2. Beginning with the ongoing legislative process concerning the authorization/ supervision and registration issues, let me start by recalling that Italy, which is a party to the OST, the Astronauts Agreement and the Liability Convention, has not yet acceded to the 1975 Registration Convention. To date, the Italian Government has transmitted to the Secretary-General of the United Nations, information on national spacecrafts launched into orbit, on a voluntary basis, in accordance with resolution 1721 B (XVI), para. 1, adopted by the General Assembly on 20 December 1961. This non-binding resolution calls upon States launching objects into orbit or beyond to furnish information promptly to the COPUOS, thorough the Secretary-General, for the registration of launchings. The space objects referred to in the aforementioned information include Italian satellites launched by public agencies, like the National Research Council, the University of Rome and the Italian Space Agency, as well as by Italian non-governmental entities. The registration technical data for Italian space launches are the same provided for by the 1975 Convention, namely the name of the satellite or the name and type of the space object; the launching State or Organisation; the territory, location or place of launch; the orbital parameters and the general function of the space object. A national registry is informally carried out by the Italian Space Agency (ASI).

The new development occurring in Italy concerns a draft bill that has been recently submitted to the Parliament at the Government's initiative, containing not only the authorization for the accession to the 1975 Registration Convention, which will take place as soon as possible, but also the enactment of norms regulating the registration of space objects both nationally and at the United Nations level. These norms are intended to supersede the current voluntary administrative practices on national and international registration of space objects. This means that, for the moment, the process only deals with a limited part of possible space legislation, leaving out the rules on authorization and supervision of space activities, which would have slowed down the accession of Italy to the 1975 Registration

Convention. Concerning the sector momentarily left out, there are several options still open, but it is clear that a new regime, once defined and enacted, would better promote private-sector activity and space use for the achievement of the objectives set forth in the Italian space programme, namely space technologies and applications for economic growth and industrial competitiveness, sustainable development, security and defence, thus aiding development.

As I have said, the draft bill currently under consideration provides more precise rules on the registration of space objects, in accordance with Article II, para. 3, of the 1975 Convention, that leaves the content of each registry and the conditions under which it is maintained to be determined by the State of registry concerned. In fact, according to Article 3 of the draft bill, the Italian Space Agency is entrusted with the institution and custody of a National Register for the objects launched into outer space, including the information concerning each space object as prescribed by Article IV of the 1975 Convention.

The main interesting point is certainly the determination of the private subjects that are obliged to notify the ASI with the required information. There are several categories of private entities that are required to comply with the law. First of all, all persons, natural and juridical, of Italian nationality that launch or procure the launch of a space object. This provision adopts indeed the personal criterion of nationality, which is to be determined according to the Italian legislation on nationality.[1]

In view of this connecting link, the draft bill will apply not only to private persons that launch or procure the launch from the Italian territory or from a facility under Italian jurisdiction or control, but also from a territory or facility pertaining to a foreign State.

It is evident that this choice of the Italian legislator can lead to the consequence that a conflict of jurisdiction may occur if a space object is launched by an Italian national from outside the Italian jurisdiction, if the territorial or jurisdictional State also considers the launch, according to its own legislation, to be registered into the national register.

Nevertheless, it is to be stressed that the State of Registry is, according to Article I of the 1975 Convention, a launching State and that, following Article II, para. 2, of the same Convention, when there are two or more launching States in respect of any object launched into outer space, they shall jointly determine which one of them shall register the object in accordance with the Convention. In other words, the obligation to notify the ASI of a space object is only to be complied with and the consequent entry of this object into the Italian register will only be actual when, considering the particular launch and the rules applicable to it, including contractual rules, Italy is to be considered as the launching State of the object concerned. In fact, the draft bill requires the setting up of a registry of those space objects, launched from the territory or facilities under jurisdiction, by Italian persons for which Italy becomes the launching State according to the 1975 Convention. If, in addition to Italy, at least one other State is considered to be a launching State of that space object, Italy shall only register it if it has been so agreed with the other launching State or States.

Secondly, the draft bill provides for the registration of objects launched in outer space by foreign persons from the Italian territory or from facilities under Italian control (i.e. the San Marco-Malindi Launch and Tracking Station in Kenya).[2] The territorial criterion is

[1] See Law n. 91 of 5 February 1992 and further modifications.

[2] Ferrajolo, O., Launch and Tracking Stations: The "San Marco – Malindi" Case, in *Outlook on Space Law over the Next 30 years*, The Hague, 1997, pp. 273-284.

once again a tool for avoiding lack of registration or double registration, in the sense that the ASI has to register a space object only if, notwithstanding the foreign nationality of the launcher, Italy is to be considered under the applicable stipulations as the launching State.

Article 6, paragraphs 5 and 6, requests the ASI to communicate such entries into the national register to the Ministry of research and technological development, for internal purposes, and to the Ministry of Foreign Affairs, which will transmit to the Secretary-General of the United Nations the information required by Article IV of the Registration Convention.

The draft bill yet rules that persons having the obligation to notify the launch of a space object also notify the Agency that the registered object has abandoned the Earth orbit. This provision is included in order to allow Italy, as State of registry, to inform the Secretary-General of the United Nations, under the 1975 Convention, of space objects concerning which it has previously transmitted information and which have been but are no longer in Earth orbit. However, no specific norm regards the case of re-entry of a space object that, on the contrary, would have been an appropriate choice, considering the precedent of the BeppoSAX satellite, switched off on April 30, 2002 after six years of fruitful orbital life of systematic, integrated and comprehensive studies of galactic and extra-galactic sources in the energy band 0.1-300 key. It is known that BeppoSAX fragments have splashed down into the Pacific Ocean the April 29, 2003.[3] In this occasion, the Italian Government paid particular attention, because the assessment made demonstrated a certain risk on the equatorial countries in spite of the large band covered by oceans. We remind that the satellite motion was uncontrollable, and many fragments, totalling 650 kg, were expected to reach the ground. A procedure of risk notifications trough diplomatic channels was set up and proved to be very positive, notwithstanding the inevitable rank of misunderstandings by the informed States, like false alerts, unfunded requests of damage reimburse, requests of support for other re-entry cases or of financial support for pre re-entry activities.

While it is worthwhile to consider such experience as an input for the harmonisation, on a voluntary basis, of the re-entry procedure to be followed by the launching State, the Italian legislative Body could have made a good choice including in the draft bill on registration some disposition concerning the re-entry of Italian space objects and the standardisation of the procedure set up for the case.

More generally, I can say that the draft bill could have been formulated in a more detailed way, in order to fill the gaps that have been identified in the 1975 Registration Convention, like the lack of a time limit for submitting information on launches to the Secretary-General. In this vein, I have to regret that no disposition obliges the operator of a space object to notify the ASI within a certain time limit from the launch.

3. The second building block of any national space legislation is constituted by the rules on compensation for damage caused by objects launched in outer space. This issue is covered in the Italian legal system by Law n. 23 of 25 January 1983, as an instrument for implementing the 1972 Liability Convention. The latter is in its turn partially modelled, at least form the standpoint of procedural aspects, on the norms of general international law concerning diplomatic protection. Due to the tenure and terms of the 1972 Convention, the previous Italian Law n. 426 of 5 May

[3] According to an assessment of the United States Space Surveillance Network (SSN), the BeppoSAX satellite, or at least its main fragment, decayed to an altitude of 10 km on 29 April 2003, at 22:01 UTC ± 7 minutes.

1976, enacted for the ratification and the implementation of the Convention into the Italian legal order and containing the so-called "*ordine di esecuzione*", was not sufficient for the purpose of adapting the internal law to the Convention, which is partly not self-executing, but require implementing regulation.[4] In this perspective, Law n. 23 is a piece of legislation intended to complement the Convention, which is applicable to States and not to individuals damaged by space objects.[5]
Following its Article 1, para. 1, Law n. 23 applies to damage caused by objects launched into outer space by a State party to the 1972 Liability Convention. No attempt is made to specify the meaning of such notions as "damage", "launching" and "Launching State", but a general clause incorporates into the Law, by reference, not only the definitions contained in the 1972 Convention, but also the problems arising out from the interpretation of these terms still open at the international level.

4. So said, it is noteworthy that, under Article 6 of Law n. 23, the legal regime set up thereby is not applicable if the victims of damage caused by objects launched in outer space are directly pursuing a claim for compensation in the courts or administrative tribunals of the liable launching State. This disposition is consistent with Article XI, para. 2, of the 1972 Convention, following which nothing in the Convention shall prevent a State, or natural or juridical persons it might represent, from pursuing a claim in the courts or administrative tribunals or agencies of a launching State. However, this norm continues by stating that a State is not entitled to present a claim under the Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a launching State or under another international agreement which is binding on the State concerned. Thus, the 1972 Convention, on the one hand, does not impose the exhaustion of the local remedies which may be available to a claimant State or to natural and juridical persons it represents as a previous requirement for presenting a claim to the liable State (Article XI, para. 1, of the Convention), but, on the other hand, it sets out the principle of *electa una via non dat recursus ad alteram*, in order to avoid the institution of parallel proceedings under the Convention and under national, or other international binding procedures. Law n. 23 follows these principles: no damage can be compensated by the Italian State if a claim for the same damage has been introduced at the national or international level.
As I have said, Law n. 23 applies only in cases of damage caused by space objects launched by foreign launching States. It is of course evident that the Italian Law does not institute any particular procedure for allowing the victims to recover compensation for damage caused by objects launched in outer space by the Italian State as launching State. In fact, the 1972 Convention does not impose any obligation in this regard, providing for a diplomatic procedure that the State concerned with the damage may initiate and the settlement of potential disputes according to the claim commission's mechanism. National and foreign individuals that are damaged by space objects launched by Italy may also pursue a claim before Italian courts and tribunals in order to get compensation. In this case, these courts and tribunals will apply the 1972 Convention and decide upon the claim according to the applicable ordinary rules contained in the Civil Code.

5. From a general perspective, we can identify two sets of norms in Law n. 23: the first one comprises those directed to complement the

[4] See Official Gazette n. 160, Ordinary Supplement, 19 June 1976.
[5] See the Annex for an unofficial English translation of Law n. 23.

1972 Convention, in order to allow compensation for damage; the second one has an integrating purpose, broadening the guarantees given to individuals that are victim of damage caused by space objects.

A general condition is that natural and juridical persons can obtain compensation by the Italian State only if and to the extent which the latter has in its turn presented and obtained compensation by the launching State under the 1972 Convention. This requirement is in line with Article VIII, para. 1, of the Convention, giving to a State which suffers damage, or whose national or juridical persons suffer damage, the faculty to present to the liable State a claim for compensation for such damage. Thus, the Convention provides for a discretionary power of the concerned State and, for that reason, the natural and juridical persons that suffer the damage, do not have an enforceable right to pretend that this State should present an international claim to the launching State.

In this perspective, the 1972 Convention is at least partially inspired by the same rationale of the diplomatic protection under general international law. Diplomatic protection is the procedure employed by the State of nationality of the injured person to secure protection of that person and to obtain reparation for an internationally wrongful act inflicted. According to the traditional notion of diplomatic protection as stated by the Permanent Court of International Justice in the *Mavrommatis Palestine Concessions case* (Greece v. UK) : "By taking up the case of one of its subjects and by resorting to diplomatic protection or international judicial proceedings on his behalf a State is in reality asserting its own right – its right to ensure, in the persons of its subjects, respect for the rules of international law". The analogy must of course be taken *mutatis mutandis*, the main differences being that, in the case of the 1972 Convention, it is not question of responsibility deriving from violations of international obligations, illicit acts or wrongful behaviours, but of absolute liability arising - except in limited cases - from the mere fact that a damage caused by a space object has occurred. Besides, only the State of nationality can bring a claim in diplomatic protection, while other States can, subject to certain conditions, present a claim for damage caused by space objects, as I will mention later considering other norms contained in Law n. 23.

On the contrary, the analogy is relevant from the standpoint of the discretionary power of a State to present a claim for compensation. In both cases, diplomatic protection and 1972 Convention, a State has the right to protect the entitled individuals (nationals and/or non nationals) but is under no obligation to do so, and the individuals concerned have no right to be protected neither under general international law or the 1972 Convention. As far as diplomatic protection is concerned, in the *Barcelona Traction Light and Power Company* case, the International Court of Justice reaffirmed this principle: "The State must be viewed as the sole judge to decide whether its protection will be granted, and to what extent...It retains in this respect a discretionary power". Apart from certain new trends that are emerging in this particular field of international law, as evidenced by the works on diplomatic protection of the International Law Commission and of the International Law Association[6], mainly on the loosening of the nationality of claims requirement and the protection of individuals affected by gross violations of international law, it is indeed true that the discretion in the governmental decision to spouse a claim, can be subjected to certain conditions within the internal law of each State. In the same vein, Article VIII, para. 1, of the Liability

[6] See Report of the ILC, 54th session, 2002, p. 168 seq. and Orrego Vicuna, Interim Report on "The Changing Law of Nationality of Claims", in ILA Committee on Diplomatic Protection of Persons and Properties, First Report, London, 2000, p. 30 seq.

Convention provides that the State whose natural or juridical persons suffer damage *may* present a claim for compensation of such damage. Of course, nothing can prevent the domestic legislation of a State to convert this faculty into an obligation toward the individuals concerned.

This is precisely the case of Italian Law n. 23, in relation to claims for damage suffered by nationals and covered by the 1972 Convention. If the general principle applicable to nationals and non nationals limits the individual right to obtain compensation, which in fact exists only if and to the extent which the Italian State has presented a (discretionary) claim and obtained reparation, Article 3 of the Law broadens the scope of the Liability Convention enlarging in two ways the protection of the victims of Italian nationality. It gives them a right to be compensated even though the Italian State has not obtained compensation, for one reason or another, from the liable launching State under the Convention. Italian natural and juridical persons are also entitled to receive compensation if the Italian State has presented no claim for compensation, provided, in this case, that a claim has not been presented to the liable State by the State on whose territory the damage was sustained or by the State of which the persons concerned are permanent residents.

As I have already said, Law n. 23 also recognizes a conditioned right for compensation to foreign natural and juridical persons, only when and to the extent which the Italian State has presented a claim and obtained reparation. This principle sticks on Article VIII, paragraphs 2 and 3, of the Liability Convention, that allows Italy to present a claim in respect of damage sustained in its territory by foreign natural or juridical persons whose State of nationality has not presented a claim or by foreign permanent residents when neither the State of nationality nor the State on whose territory the damage was sustained have presented a claim or notified (in the second case) its intention of presenting a claim.

6. In order to be applicable, Article 3 of Law n. 23, concerning the obligation to compensate for damage Italian individuals, presupposes the identification of the moment in which the claim presented by the Italian State has to be considered as unsatisfied by the launching State. The 1972 Convention does not contain any indication in this respect. We can argue that the launching State satisfies the claim when it agrees on compensation for the requested amount or for an amount that is accepted by the claimant State. This is why Law n. 23 restricts the obligation to compensate Italian victims only to the amount actually obtained, though this disposition could be presumed not to be fully consistent with the 1972 Convention, in the sense that, in case of considerable damage, Italy could agree with the launching State a lowest if not symbolic compensation, rather that compensate Italian victims, if the claim remains unsatisfied, according to the criteria imposed by its internal legislation on reparation for damage.

In fact, if the Italian claim remains unsatisfied or the claim has not been presented, Law n. 23 establishes that Italian natural and juridical persons can obtain compensation according to Articles 2056, 1223 and 1226 of the Civil Code, that is to say inclusive of indirect damage and economic loss, to be determined equitably by the courts.

Finally, Article 5, para. 1, of Law n. 23 sets out that the liability of the Italian State is absolute in nature and does not admit exoneration. On the contrary, the "absolute" liability of the launching State under the Convention is excluded when damage has resulted from gross negligence or an act or omission done with the intent to cause damage (Article VI). Besides, always under the Convention, in case of damage caused elsewhere than on the surface of the Earth, the launching State is liable only if the damage is

due to its fault or that of the persons for whom it is responsible.
A brief consideration of the procedural aspects regulated by Law n. 23 shows that victims can submit their request for compensation within five years following the date on which such damage occurred or its effects are exhausted, in line with Italian rules on statutory limitations (Article 2947 of the Civil Code). Considering that a claim may be presented under the 1972 Convention no later than one year following the date of the occurrence of the damage or of the identification of the launching State which is liable, there seems to be sufficient time for the victims to introduce the request for compensation.
One can conclude indeed that Italian Law n. 23 enhances the protection of individuals compared with that resulting from the 1972 Convention, at least for victims of Italian nationality, which are entitled to be compensated even if the Italian State has not presented a claim or has not obtained compensation from the liable State.

7. Finally, the Italian regime applicable to space activities cannot be assessed without making a reference to the legal framework of the EU, to which Italy belongs as a founding Member. The on-going involvement of the EU in space matters, and the rise of a regulatory European capacity in that field, would indeed certainly affect the future prospects of national space legislation in Italy as well as in all European countries.
In the framework of the EU Treaty (the latest version of which is the Treaty of Nice, which entered into force in February 2003), initiatives have been taken by States belonging to the EU which include a space element in community policies. The Union has exercised, through the European Community (EC), complementary competence for space matters using its competencies in other areas.[7] Meanwhile, the Constitutional Treaty has been drafted and is now under scrutiny at the national level for ratification. The principal novelty is that space appears among the EU competencies, paving the way towards a "common" European space policy (ESP), governed by the EU legal order.
In the present phase, one has to move from the basic principle of "conferred powers" established by Article 5 of the Treaty on the EC (TEC), which enables the Community to act within the limits of the powers conferred upon it by the Treaty and the objectives assigned to it therein. In this context, space is not explicitly covered.
In the absence of an explicit constitutional legal basis in the Treaty, the Community's role in space matters has been founded on a number of legal basis, which enable existing EU policies - such as Articles 70 on Transport; 154 on trans-European networks; 157 on Industry; 163-173 on research and technological development and so on - to call upon space as a technology which supports their implementation. The Galileo project is governed by a Joint Undertaking established between the EC and the ESA in accordance with Article 171 of the TEC and ruled by Council regulation (EC) n. 876/2002 of 21 May 2002.
This is not to mention of course the legislative and regulatory initiatives that have been taken in the satellite communications field which are aimed at liberalising and harmonizing the area of ground segment and on the abolition of exclusive and special rights in the provision of satellite communications services and equipment.[8] The EC also took harmonization initiatives in the coordination of frequency allocation, most notably within ITU

[7] For an analysis of the GalileoSat programme, see Hobe-Cloppenburg, Financial Contributions of Participating States to Optional Programmes of the European Space Agency (ESA), in German Journal of Air and Space Law, 2003, pp. 297-313.
[8] Cf. Salberini, *Telecomunicazioni* (dir. com.), Enciclopedia giuridica Treccani, XXX, Rome, 2002.

conferences. This issue has been already addressed by decision n. 676/2002/EC of 7 March 2002 on a regulatory framework for Radio Spectrum policy in the EC.

In fact, the promotion of European space activity and use by the private sector, also through harmonization of national space legislation and legal schemes, like EC regulations or directives, could be founded on a combined legal basis: on the one hand, the common objectives embodied in Article 2 of the TEC, and on the other hand, Article 95, on the approximation of provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market (as it has been the case in the above-mentioned decision on Radio Spectrum).[9] If necessary, the Council of the Union could also apply the appropriate measures foreseen by Article 308 (so-called inferred powers).

After the (possible) entry into force of the draft Treaty establishing a Constitution for Europe, the Union will have a shared competence on space with member States, to adopt necessary measures in the form of European laws or European framework laws. It is clear indeed that the EU will be in a position to exercise its competence in matter of space also by adopting legal instruments.

The process towards harmonization of national space legislation within the EU legal order seems to be implicitly legally admissible according to the legal scenario that is presented in the Commission's White Paper on European Space Policy of November 2003. In this regard, it seems to me that it is time to think about potential building blocks of European harmonized space legislation.

I would like to conclude by thanking the organizers of this event for their remarkable efforts. An old booklet on Rules for Perfect Conduct or Etiquette for Gentlemen recommends "if you have travelled, do not introduce that information into your conversation at every opportunity. Anyone with money and leisure can travel. The real distinction is to come home with enlarged views, improved tastes, and a free mind". I am sure that this journey to Vancouver and the participation in this exciting IISL meeting have certainly enlarged my views, improved my taste and freed my mind.

[9] See Constitutional Law of the European Union, Lenaerts-Van Nuffel-Bray (editors), London, 1999, pp. 205-211.

Annex

Law 23, 25 January 1983
(in the Official Gazette 35, 5 February, 1983).
Norms for the implementation for the Convention on International Liability for Damage caused by Space Objects, signed in London, Moscow and Washington March 29, 1972.
Unofficial English Translation

Art.1.

The present law applies in cases of damage caused by space objects launched by foreign States which are party to the Convention on International Liability for Damage caused by Space Objects, signed in London, Moscow and Washington 29 March 1972, and which will be referred to as the Convention in the following provisions.

For the purposes of the present law the definitions contained in Article 1 of the Convention apply.

Art.2.

Italian persons, natural and juridical, can obtain compensation from the Italian State for the damage indicated in Article 1 to the extent which the Italian State has requested and

obtained, in accordance with Article VIII, n. 1 of the Convention, compensation from the launching State for damage caused to them.
In the case that the Italian State has not presented a request under Article VIII, n.1, of the Convention, it has an obligation to compensate those persons indicated in the first clause for damage suffered, as long as the State on whose territory the damage occurred or the State in which the aforementioned persons are permanent residents have not requested and obtained compensation for the same damage from the launching State in accordance with respectively Article VIII, n. 2 or n. 3 of the Convention.
Natural and juridical persons can obtain from the Italian State compensation for damage stated in Article 1 when and in the measure which the Italian State requested and obtained the compensation for said damage from the launching State following Article VIII, n. 2 or n. 3, of the Convention.

Art.3.

The Italian State has the obligation to compensate natural and juridical Italians for the damage indicated in Article 1 even when it has formulated a request under Article VIII, n. 1 of the Convention but that request remains unsatisfied.

Art.4.

Persons may, under Article 2, request compensation for damage from the Italian State within five years following the date on which the damage occurred or of the date on which the effects of that damage are exhausted.

Art.5.

The responsibility of the Italian State towards those persons indicated in Articles 2 and 3 for the damage indicated in Article 1 is absolute in nature and does not admit exoneration.
In the cases provided in Article 2, clause 2 and in Article 3 the level of compensation is established in accordance with Articles 2056, 1223, and 1226 of the Civil Code and the victim may request restitution under the terms of Article 2058 of the Civil Code.

Art.6.

The provisions of the preceding Articles are not applicable in the case that the persons damaged by a space object have made direct representation to the courts or administrative bodies of a launching State seeking compensation for damage caused by a space object.