Culmination of Efforts in the Area of National Space Legislation in 2012

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The year 2012 marks important milestones in the area of national space legislation. In March 2012, the working group of the Legal Subcommittee of the United Nations Committee for the Peaceful Use of Outer Space (COPUOS) established under the agenda item "General exchange of information on national legislation relevant to the peaceful exploration and use of outer space" concluded its work and adopted a comprehensive final report. In August 2012, the Space Law Committee of the International Law Association (ILA) presented the "Sofia Guidelines for a Model Law on National Space Legislation" at the ILA Conference in Sofia, Bulgaria. In addition, efforts at the national level have brought about new national space laws, including the Austrian Outer Space Act which entered into force in December 2011.

The present paper provides an overview over the progress of the different initiatives on national space legislation. After a short summary of the background and the different stages of development in the past years, the three outcome documents will be presented and compared. The analysis will both cover procedural and substantive aspects.

As regards the COPUOS' Legal Subcommittee's working group report, specific observations of the present writer as the chair will complement the discussion of the contents and the value of the results achieved. As regards the ILA's Model Law, the present writer as a member of the ILA Space Law Committee highlights some aspects of the discussion among the space law experts participating in this committee. Finally, the Austrian Outer Space Act which was drafted by the present writer shall be analysed against the background of the COPUOS Legal Subcommittee's working group report and the ILA Model Law.

I Introduction

National space legislation has become a top priority issue in the area of space law in the last years. Various academic research projects involving scholars

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and practitioners from different parts of the world have been published.[1] In addition, the United Nations Committee for the Peaceful Uses of Outer Space (UNCOPUOS) and the International Law Association (ILA) started specific initiatives dedicated to deal with it in detail. These initiatives, multiannual endeavours and presented the results of their work. The urgency of the issue is also reflected in State practice. Austria and Kazakhstan have enacted their national space laws in the past 12 months.

The common reason behind all these initiatives is the growing need for more concrete national regulations on outer space activities in view of an increased participation of private actors. As international space law, in particular the five UN treaties on outer space,[2] only address states and not in 2012, almost simultaneously completed their private law subjects, implementation at the national level is important. Only appropriate regulatory frameworks at the national level make it possible to ensure that private operators are bound by the legal principles and obligations which are regarded as essential for the peaceful exploration and use of outer space.

However, the private actors operating in outer space are very diverse. They include large commercial telecom corporations, international consortia as well as university institutes which start do develop small satellites.

The present paper will discuss the question, if the initiatives at the international and the national levels are developing in harmony or in diversity.

Are they leading to more clarity and transparency or to more confusion or even conflict?

It will start with a brief overview over the work of the Working Group on national space legislation of the Legal Subcommittee (LSC) of UNCOPUOS which has concluded its work under a workplan in March 2012.

Then, the recent adoption of the ILA "Model Law on National Space Legislation" at the ILA Conference in Sofia, Bulgaria, shall be discussed. Finally, the new Austrian Outer Space Act which entered into force on 28 December

1 See, for example, Karl-Heinz. Böckstiegel (ed.), 'Project 2001' – Legal Framework for the Commercial Use of Outer Space (2002); Stephan Hobe/Bernhard Schmidt-Tedd/Kai-Uwe Schrogl (eds.), Project 2001 Plus – Towards a Harmonised Approach for National Space Legislation in Europe (2004); Christian Brünner/Edith Walter (eds.), National Space Law. Development in Europe – Challenges for Small Countries (2008); Ram S. Jakhu (ed.), National Regulation of Space Activities (2010); Frans von der Dunk (ed.), National Space Legislation in Europe (2011).

2 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies of 1967 (hereinafter: Outer Space Treaty); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer space of 1968 (hereinafter: Rescue Agreement); Convention on International Liability for Damage Caused by Space Objects of 1972 (hereinafter: Liability Convention); Convention on Registration of Objects Launched into Outer Space of 1975 (hereinafter: Registration Convention); and the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies of 1979 (hereinafter: Moon Agreement).

2011 shall be analysed in relation to the above mentioned two international initiatives.

II The Work of the LSC and Its Working Group on National Space Legislation

In 2007, the LSC of UNCOPUOS introduced a new agenda item under a workplan entitled "General exchange of information on national legislation relevant for the peaceful exploration and use of outer space".[3] It established working group under the chairmanship of the present author which started its work according to a workplan.[4] In March 2012, at its final session, the working group concluded its final report.

In contrast to the draft of the final report of 2011 which consisted of four parts and two annexes,[5] the final report of 2012 only consists of three parts and one annex.[6] Part II of the draft which was supposed to be a brief overview over existing national space legislation has been taken out. The working group considered that it would be more useful to join it to the schematic overview over national space legislation, a table prepared by the Secretariat on the basis of replies by member States.[7] This schematic overview, originally planned to be Annex II of the report, was regarded as an important source of information on how States regulated their national space activities.[8] However, further updating was regarded as necessary in order to enable an appropriate analysis of national legislative frameworks.[9] Therefore, instead of including the schematic overview in the final report, it was decided to keep it as a "living instrument" which would be updated regularly.

As regards the "Conclusions" (part III) of the final report, the working group agreed that they should provide the basis for "Recommendations on national legislation relevant to the peaceful exploration and use of outer space" which

3 Report of the Legal Subcommittee on its forty-sixth session, held in Vienna from 26 March to 5 April 2007, UN Doc. A/AC./105/891, para 136.

4 For a detailed report of the work of the Legal Subcommittee on national space legislation in the years 2008 and 2011 see Irmgard Marboe, National Space Legislation – the Work of the Legal Subcommittee of UNCOPUOS 2008-2011, in: IISL (ed.), Proceedings of the Fifty-fourth Colloquium on the Law of Outer Space (2012).

5 See Report of the Chair of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, UN Doc. A/AC.105/990 (20 April 2011), Annex III, paras. 5-8.

6 Report of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, UN Doc. A/AC.105/C.2/101 (3 April 2012).

7 Schematic overview of national regulatory frameworks for space activities, UN Doc. A/AC.105/C.2/2012/CRP.8 (16 March 2012); Addendum A/AC.105/C.2/2012/CRP.8/Add.1 (26 March 2012).

8 See Report of the Chair of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, UN Doc. A/AC.105/1003 (10 April 2012), Annex III, para. 5.

9 Ibid.

should be presented to the UNCOPUOS session in June 2012 as the basis for a draft General Assembly resolution or an annex to the draft resolution on international cooperation in the peaceful uses of outer space, for adoption by the UN General Assembly in autumn 2012.[10]

Consensus on the text of these Recommendations could be reached during the meetings of the working group throughout the LSC's fifty-first session so that they were included as Appendix to the report of the Chair of the Working Group.[11] To reach a consensus on the text was facilitated by the fact that, at the beginning of the first meeting of the working group, the chair had submitted a working paper entitled "Revised draft set of conclusions of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer space" in all official languages of the UN which she had prepared after inter-sessional consultations. This was in line with the mandate of the working group report of 2011 which had requested the chair, in consultation with the Secretariat, to make available the revised chapter on conclusions in all official languages of the United Nations for adoption by the Working Group in order to "enable further consideration of the revised chapter IV on conclusions, including the discussion on the possible development of recommendations of the Legal Subcommittee, the Committee on the Peaceful Uses of Outer Space or the General Assembly".[12]

On its meeting on 30 March 2012, the LSC endorsed the final report of the working group on the work conducted under its multi-year workplan.[13] It furthermore endorsed the report of the chair of the working group and recommended that the main Committee consider the "Recommendations on national legislation relevant to the peaceful exploration and use of outer space" contained in the Appendix of the report in its session in June 2012 and "decide in which form the text should be submitted to the General Assembly, as recommended by the Working Group".[14]

Two alternatives were on the table: first, the Recommendations could be adopted as an independent General Assembly resolution, as it was the case after the conclusion of the work of the working groups on the concept of the launching State,[15] and on registration practice.[16] Secondly, the Recommendations

10 Ibid., para 6.

11 See Report of the Chair of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, UN Doc. A/AC.105/1003 (10 April 2012), Annex III, Appendix.

12 Report of the Chair of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, UN Doc. A/AC.105/990 (20 April 2011), Annex III, para. 11.

13 Report of the Legal Subcommittee on its fifty-first session, held in Vienna from 19 to 30 March 2012, UN Doc. A/AC./105/1003, para. 163.

14 Ibid., paras. 164-165.

15 UN GA Resolution 59/115 of 10 December 2004, Application of the concept of the "launching State".

16 UN GA Resolution 62/101 of 17 December 2007, Recommendations on enhancing the practice of States and international intergovernmental organizations in registering space objects.

could be adopted as an annex to the annual General Assembly resolution on International cooperation in the peaceful uses of outer space, as it had been the case with the "Declaration on the Fiftieth Anniversary of Human Space Flight and the Fiftieth Anniversary of the Committee on the Peaceful Uses of Outer Space" the year before.[17]

However, at the UNCOPUOS session in June 2012, it turned out that the text of the Recommendations was not acceptable to all delegations in all languages. Despite the availability of previous version of the text in all official UN language, some concepts in the final text were, from the perspective of some delegations, not adequately translated.[18]

After informal consultations, the chair of the working group proposed a "Revised version of the text on recommendations on national space legislation relevant to the peaceful exploration and use of outer space" in track change mode.[19]

However, there was not enough time at the UNCOPUOS session in June to reach an agreement on this new version of the text.

Therefore, the Committee agreed that the recommendations developed by the Working Group and endorsed by the LSC constituted a "sound basis" for a separate draft General Assembly resolution or an annex to the draft resolution to be submitted to the Assembly on international cooperation in the peaceful uses of outer space. It took note that the chair would continue to consult with member States on the text of the recommendations in the inter-sessional period. It agreed that the text, as revised on the basis of those consultations, should be submitted, in all of the six official languages of the UN, to the LSC at its session in 2013 which then should also consider the form in which the agreed text was to be submitted to the General Assembly at its session in autumn 2013.[20]

The basic document for consideration in the inter-sessional period is the "Revised version of the text for on national space legislation relevant to the peaceful exploration and use of outer space".[21] It consists of a preamble and an operative paragraph which contains "elements It consists of a preamble and an operative paragraph which contains "elements for consideration" for States when enacting regulatory frameworks for national space activities. There are

17 UN GA Resolution 66/71 of 12 January 2012, International cooperation in the peaceful uses of outer space, Annex.

18 The main problem was that "nationals", in the Russian language does not include juridical persons. Therefore, para. 2 of the Appendix would not make sense. Furthermore, involvement of the "private sector" was regarded as not appropriate as the Outer Space Treaty rather deals with "non-governmental entities". Other delegations were not happy with the term "transparency" because with regard to space activities, many States have security concerns so that not all of the process can be transparent. The term "predictability" was regarded as more appropariate.

19 UN Doc. A/AC.105/2012/CRP.21 (14 June 2012).

20 Report of the Committee on the Peaceful Uses of Outer Space, Fifty-fifth session (6-15 June 2012), UN Doc. A/67/20, paras. 250-252.

21 UN Doc. A/AC.105/2012/CRP.21 (14 June 2012).

eight "elements" that States could consider when enacting regulatory frameworks for national space activities, in accordance with their national law, taking into account their specific needs: 1. the scope of application (definition of space activities targeted by national regulatory frameworks); 2. the definition of national jurisdiction over space activities; 3. the authorisation procedure; 4. conditions for authorisation; 5. ways and means of supervision of space activities; 6. establishment of a national register of objects launched into outer space; 7. possible recourse mechanisms and insurance requirements; 8. transfer of ownership or control of a space object in orbit.
The decision about the Recommendations was referred back to the LSC and postponed to 2013. However, the agenda item "General exchange of information on national legislation relevant for the peaceful exploration and use of outer space" under a workplan, including the working group, had ended in March 2012. Yet, the LSC had decided to transform the "agenda item under a workplan" into a "regular item on the agenda" entitled "National legislation relevant to the peaceful exploration and use of outer space".[22] This will enable the LSC to continue its work on the important issue of national space legislation, to update the schematic overview over national space legislation regularly, as mentioned above, and to include in its discussions the draft Recommendations concerning "elements for consideration" for States considering enacting regulatory frameworks for national space activities.

III The ILA Model Law on National Space Legislation

The Space Law Committee of the ILA has been dealing with the commercialization of outer space and its legal aspects since the 2004 Conference in Berlin.[23] In early 2005, the chair of the Space Law Committee, Maureen Williams, and the rapporteur, Stephan Hobe, sent out a questionnaire in which the Committee members were invited to comment, *inter alia,* on the respective State practices on national space legislation. The results were presented at the Committee's working session during the 2006 Toronto Conference.
At the 2008 Conference in Rio de Janeiro, the rapporteur submitted a report on national space legislation in which he emphasized the work of the LSC of UNCOPUOS which had been very active as regards the exchange of information on national space legislation.[24]

22 Report of the Legal Subcommittee on its fifty-first session, held in Vienna from 19 to 30 March 2012, UN Doc. A/AC./105/1003, para. 177.

23 Stephan Hobe (General Rapporteur), Report of the Space Law Committee, Part II, National Space Legislation – A Draft Model Law, in: ILA (ed.), Report of the Seventy-Fourth Conference The Hague (2010) 274.

24 Stephan Hobe (General Rapporteur), Report of the Space Law Committee, Part II, National Space Legislation and Registration of Space Objects, in: ILA (ed.), Report of the Seventy-Third Conference Rio de Janeiro (2008) 647–649.

The Committee noticed a growing willingness of States to enter into a more concrete discussion and started to consider the elaboration of a model law.[25] Such a model law should be based on the so-called "building block" which had already been recommended by the Committee in 2004.[26] The "building blocks" were a result from Project 2001 and Project 2001 Plus of the University of Cologne[27] which considered them to be essential corner stones for future space legislation in view of the international law obligations of States stemming from the Outer Space Treaty and the Liability Convention.[28]

In 2010, at the Conference in The Hague, a first draft of the Model Law was presented. The rapporteur opened the discussion with the aim of deciding whether some kind of model law could be adopted.[29] In view of the rapporteur, there was a core of legislation indispensable for any future legislation: the duty and details for authorisation procedures and licensing, and respective requirements; the duty of supervision; the necessary insurance for private space actors.[30] The so-called "building blocks" encompassed: 1. authorisation of space activities; 2. supervision of space activities; 3. registration of space objects; 4. indemnification regulation, and 5. additional regulation.[31]

The proposed Model Law consisted of 9 articles in which largely correspond to the above-mentioned building blocks. Articles 1 and 2 deal with "authorisation". It is notable, that the Model Law proposed that "[a]ll activity with the aim of reaching outer space/at an altitude of over 100 km above sea level is considered a space activity." The establishment of a delimitation of "space" at an altitude of 100 km would be a breakthrough for the long lasting discussion on the delimitation of outer space and air space. The Model Law in this respect follows the path taken by the Australian space law which also refers to the 100 km mark for the definition of space objects.[32]

Article 6 deals with "Supervision" and establishes that a supervisory authority should report regularly "to the highest administrative authority of the country". "Registration" is covered in Article 5 according to which a national register should be established. Non-governmental entities should provide "any

25 Ibid., 650.

26 Stephan Hobe (General Rapporteur), Report of the Space Law Committee, Part II, National Space Legislation, in: ILA (ed.), Report of the Seventy-Third Conference Berlin (2004) 759.

27 See above, fn 1.

28 Stephan Hobe (General Rapporteur), Report of the Space Law Committee, Part II, National Space Legislation, in: ILA (ed.), Report of the Seventy-Third Conference Berlin (2004) 757.

29 Stephan Hobe (General Rapporteur), Report of the Space Law Committee, Part II, National Space Legislation – A Draft Model Law, in: ILA (ed.), Report of the Seventy-Fourth Conference The Hague (2010) 275.

30 Ibid.

31 Ibid., 276.

32 Article 8 of the Space Activities Act of 21 December 1998, published in Karl-Heinz Böckstiegel, Marietta Benkö/Stephan Hobe (eds.), Space Law. Basic Legal Documents, Volume 5 (Instalment 12), E.VII.1.

information relevant for the registration of the space object in accordance with the UN Registration Practice Resolution". Within two weeks from the launch of a space object, "the required information under Article 4 paragraph 1 of the Convention on the Registration of Objelaunched into Outer Space should be made available to the Secretary-General of the United Nations." The problem of this rather long and complex article is that it contains a number of different obligations for different addressees (the national administration to establish the register, governmental space operators to register space objects, non-governmental operators to provide information, as well as someone to make the required information available to the Secretary-General of the United Nations). "Insurance" and "Compensation" in Articles 4 and 8 respectively. It provides for obligatory insurance details of which should be laid down in "specific laws". As "additional regulation" Article 7 on "Environmental Assessment" is notable. It provides for an obligatory environmental impact assessment. Furthermore, Article 9 on dispute settlement is added according to which any dispute arising from the interpretation and/or application of theses model rules "may be solved either by recourse to national courts or by settlement through a dispute settlement tribunal".

The Space Law Committee discussed the Model Law at its working session in The Hague but did not adopt it. Consultations were continued until the 2012 Sofia Conference where a revised draft was presented by the rapporteur under the title of "Draft Guidelines for a Model Law on National Space Legislation". The new draft consisted of 14 Articles and reflected the intensive exchange of views and proposals between members of the Committee in the inter-sessional period. It was accompanied by an article-by-article commentary by the rapporteur. Article 2 of the revised Model Law contains a list of definitions among which the terms "space activity" and "space object" appear without any reference to the 100 km limit. This daring advance of the first draft was dropped. The term "space activity" is instead defined as including "launch, operation, guidance, and re-entry of space objects into, in and from outer space and other activities essential for the launch, operation, guidance and re-entry of space objects into, in and from outer space". "Authorisation" and the "Conditions for authorisation" are contained in Articles 3 and 4. Article 5 deals with "Supervision" which provides different from the previous draft that space activities "shall be subject to continuing supervision by the ministerial authority under conditions to be laid down in an implementing decree or regulation". A new articles on "Sanctions" (Article 14) complements and confirms the obligation of the State to ensure that the obligations of space operators are complied with. Article 10 on "Registration" is still rather complex. However, in contrast to the previous draft, it does not mix obligations for governmental authorities and non-governmental operators and leaves room for more detailed regulations in an implementing decree or regulation.

The provisions on "Liability and Recourse" (Article 11) have only slightly been changed in relation to the previous draft, while the article on "Insurance" (Article 12) includes a completely new element, namely the possibility that the authority may wave the obligation to insure. This may be the case when a) the operator has sufficient equity capital to cover the amount of his/her liability; b) the space activity

is not a commercial space activity and is in the public interest. The details of the content and conditions shall be laid down in an implementing decree/regulation. This possibility of waiver reflects concerns of private industry and university which feared that an insurance obligation could turn out to be prohibitive.
"Protection of the Environment" is still a concern reflected in the Model Law which keeps the requirement of an environmental impact assessment (Article 7). Furthermore, "Mitigation of Space Debris" (Article 8) is now identified as an important concern and specifies the condition for authorization (Article 4, let. d) in more detail. "Dispute settlement" does not appear any more in the revised draft. Instead, Article 13 on "Procedure" provides that "the rules of procedure" for the authority shall include time limits for the decision-making of the authority and the right to impose sanctions. In addition, the draft text refers to the possibility to resort to arbitration and to the New Rules of the Permanent Court of Arbitration for Arbitration of Disputes relating to Outer Space Activities (2011). However, generally the disputes in question are disputes between "national" space operators and administrative authorities because only they are subjects targeted by the law. The respective authority usually could not or would not accept arbitration in such cases but refer to the various stages of appeal available against administrative decisions. If, however, the applicant is a foreigner, international arbitration rules could become relevant.
At its working session at the ILA Sofia Conference, the Space Law Committee adopted the draft which henceforth should be known as the "Sofia Draft Guidelines for a Model Law on National Space Legislation" and requested the Secretary-General of the ILA to forward them for consideration to the UN Secretariat, the UNCOPUOS and its two Subcommittees, the UN Office for Outer Space Affairs, the Permanent Court of Arbitration and the other relevant governmental and non-governmental organisations. The ILA Space Law Committee has dedicated a lot of work to the elaboration of the Guidelines, and their formulation is a great accomplishment. It contributes a lot to the clarification of many questions with regard to implementation of international space law at the national level. However, due to the diversity of legal systems, the different nature of space activities in various countries and the different priorities and policies of States in the area of outer space, it remains to be seen to what extent States will resort to these Guidelines when considering enacting national space legislation in the future.

IV The Austrian Outer Space Act

One of the most recent examples of national space legislation in practice is the Austrian "Federal Law on the Authorisation of Space Activities and the Establishment of a National Space Registry" (Austrian Outer Space Act).[33] It was

33 Bundesgesetz über die Genehmigung von Weltraumaktivitäten und die Einrichtung eines Weltraumregisters (Weltraumgesetz), BGBl. (Federal Law Gazette) No. 132 of 27 December 2011.

adopted by National Council on 6 December and, after publication in the Federal Law Gazette, entered into force on 28 December 2011.[34] The reason for the elaboration of a national law on outer space activities was the development and planned launch of two small satellites by Austrian universities.[35] As Austria has ratified all of the five space treaties and has always been active in the area of space law, in addition to being the host of the UN Office for Outer Space Affairs and the annual session of UNCOPUOS, it was considered as imperative to implement timely and correctly the international space law obligation into national law. In addition, the fear of becoming responsible and liable for damages caused by space activities which are not controlled by the respective authorities was another important reason to start negotiations.

A first draft was presented in 2009. A number of multilateral and bilateral meetings between the different ministries which for one reason or another were competent in space activities took place until on 11 October 2011 the Ministerial Council adopted a draft text to be forwarded to the Parliament. The draft was discussed and commented in the Parliament and adopted without any changes. The Austrian Outer Space Act consists of 17 Articles. This is longer than the ILA Model Law but still, in comparison to other national space law, a rather short act.[36] This corresponds to the rather small extent of independent Austrian space activities. It is expected that in the near future, only a small number of satellites will be developed and require legal supervision.

As regards its scope of application, the Austrian Act is entirely in line with the ILA Model Law, namely with a rather broad scope of application, including personal and territorial jurisdiction over space activities. This is remarkable insofar as recent space laws of comparable countries like Belgium and The Netherlands, have opted for a more restricted scope of personal jurisdiction.[37]

As regards "Definitions" of terms (Article 2), the Austrian Act does not set a limit to outer space but, similar to the ILA Model Law, defines "space activity" as "the launch, operation or control of a space object, as well as the operation of a launching site". Concerning "Authorization", the Act differentiates, again as the ILA Mode Law, between the obligation to get an authorisation as such (Article 3) and the conditions for authorisation (Article 4). In contrast, the provision on "Supervision" is allocated at the end of the Act (Articles 13) and differs from the ILA Model Law as it prescribes in more detail the rights and

34 The official English translation can be found on the website of UNOOSA: <www.oosa.unvienna.org/pdf/spacelaw/national/austria/austrian-outer-space-actE.pdf>.The commentary to it was translated into English and published in: 61 ZLW (2012) 42-56.

35 Irmgard Marboe, The New Austrian Outer Space Act, in: 61 ZLW (2012) 26, 27–28.

36 Michael Listner, A first look at Austria's new domestic space law, in: The Space Review, 12 December 2011, <www.thespacereview.com/article/1988/1>.

37 For an overview over different ideas on personal jurisdcition over space activities see Irmgard Marboe and Florian Hafner, Brief Overview over National Authorization Mechanisms in Implementation of the UN International Space Treaties, in: Frans von der Dunk (ed.), National Space Legilsation in Europe (2011), 29, 60-61.

obligations of the supervised operator and the supervising authorities. On the other hand, the provision on "Sanctions" (Article 14) is almost identical to the ILA Model Law's version setting an upper limit if the financial fine but also a lower limit for carrying out space activities without authorisation. The provisions on "Registration" (Article 9 and 10) deal with the establishment of a national registry and the obligations of submitting and entering information into it. Similar to the ILA Model Law, there is a mixture of obligations for different addressees. However, the different paragraphs are distinct from each other and determine quite clearly the different obligation of the operator on the one hand and those of the ministries on the other.
As regards "Recourse" and "Insurance" (Article 11 and Article 4 para 4), the Austrian Act follows quite closely the system of the ILA Model Law providing for compulsory insurance but the possibility of a waiver in case of a public interest in the space activity or sufficient financial security. The same is true for the issue of space debris which in both documents receives particular attention, namely by combining the condition for authorisation with a specific article on space debris mitigation (Article 5). In contrast, the Austrian Act does not provide for an environmental impact assessment.
As regards "procedure" as in the ILA Model Law, the Austrian Act does not contain a lot of specific norms as the Act falls under general administrative law and the pertinent procedural laws. However, it contains specific articles on the implementation of further details by "Ordinance" (Article 12), "Transitional provision" (Article 15), "Lingustic non-discrimination" and "Implementation" (Article 17) which are such not part of the ILA Model Law. Nevertheless, the Austrian Outer Space Act is very close to the ILA Model Law on national space legislation. This may be due to the lively and active interaction on a scholarly level and in international fora of the persons involved with the drafting. It also shows that the academic endeavours in the framework of the ILA are closely enough related to practice so that practical result can be achieved.

V Conclusion

The different initiatives at national and international levels have led to a more coherent approach towards national space legislation. The "elements for considerations" proposed by the LSC of UNCOPUOS are very closely related and quite similar to the different elements contained in the ILA Model Law on national space legislation. This is probably due to the fact that a continuous exchange of information and consultation on the topic of national space legislation took place between the ILA Space Law Committee and the LSC of UNCOPUOS. The chair and the rapporteur of the ILA Committee reported regularly on the progress of its work during the session of the LSC in which the ILA has an observer status. On the other hand, several members of delegations to the LSC participated actively in the work of the ILA Space Law Committee. Also in terms of State practice in national space legislation, this exchange of information has been fruitful and achieved notable results. The recent Austrian

Outer Space Act in many respects reflects the Sofia Guidelines for a Model Law on National Space Legislation of the ILA. The different national and international fora dealing with national space legislation have therefore, for the time being, rather led to more consistency and clarity in this area than to more confusion and chaos.