

12 questions and 40 points to present the law on activities relating to the launching, flight operations and guidance of space objects

I. the activities concerned

0. The Law on activities relating to the launching, flight operations and guidance of space objects is intended to regulate the navigation of space objects carried out from a place or installations placed under the jurisdiction or control of the Belgian State, that is to say:

- installations, bases, stations, control centres located in Belgian territory, including the territorial seas, except for any part of the Belgian territory placed under the jurisdiction or control of another State or an international organisation;
- vessels, aircraft, spacecrafts, offshore platforms or any other mobile installations registered by Belgium and to which such registration Belgian jurisdiction extends;
- installations, bases, stations, control centres located outside Belgian territory which are placed under its jurisdiction pursuant to agreements or rules of international law or which are placed under its control pursuant to specific arrangements, lease agreements, loan agreements or rights of use.

The control of such places or installations by the Belgian State means necessarily that the Belgian State, acting through its government and official representatives, is solely authorised to take the relevant decisions to carry out or authorise the activities concerned.

The activities concerned must be authorised by the Minister.

II. the ministerial authorisation

Who must apply for it?

1. The application must be submitted by the operator. The authorisation is granted on strictly personal basis and may not be transferred.

2. The operator is the natural or legal person that carries out or plans to carry out the activities, ensuring alone or jointly the *effective control* of the space object.

3. The effective control of the space object consists in *controlling* the means of control or remote control and related means of supervision, necessary for carrying out the activities.

To whom must the application be submitted?

4. The application for authorisation must be submitted by registered letter to the Minister designated by the Law (in principle, the Minister with responsibility for Federal Scientific Policy).

What information and documents need to be submitted with the application?

5. The law specifies the information and documents to be enclosed with the application (see article 7, §§2, 3 and 4; article 8). They are divided into three categories:

- 1) the information and data relating to the space object and the activities carried out by the operator;

Care: Other than the information specified by the Law, the operator must communicate any information *of which it is aware and may be relevant with regard to the Minister's decision whether or not to grant the authorisation.*

In the event of a failure to communicate such information, the authorisation may be withdrawn by the Minister. In addition, the operator shall lose the benefit of the limitation on its liability in the event of damage caused by the space object.

- 2) the study of the impact on the environment containing the elements specified by the King;
- 3) information relating to the possible use of a nuclear source of energy.

Information falling within the scope of the 1st and 3rd categories is provided on a form established by the King. That form may be downloaded from the Internet.

How long does it take for the authorisation to be granted/refused?

6. In principle, the Minister's decision is notified within 90 days after the application has been submitted. If additional information is requested by the Minister, that period is increased to 120 days.

7. If no decision is notified by the Minister before the above deadline(s), the application is deemed to have been rejected and the authorisation refused. The applicant then has the right to appeal against the Minister's decision under administrative common law (Council of State).

8. Except when stipulated otherwise in the Law, all decisions of the Minister in implementation of the law are subject to the rights of recourse and rules and procedures provided for under administrative law (publicising administrative documents, stating the reasons for administrative decisions, administrative disputes, etc.).

9. The Minister may designate experts in order to examine an application before taking a decision; the appointment of an expert shall not modify the prescribed time for a decision to be taken.

Under what conditions can the authorisation be suspended or withdrawn?

10. The Minister may decide to suspend or withdraw the authorisation in 3 cases:

- either in the case of non-compliance with a condition attached to the authorisation;
- or in the case of a violation of the provisions of the Law;
- or for imperative reasons of public order, the security of persons or property.

11. In the first two cases, except in an emergency duly justified, the Minister offers the operator the opportunity, prior to the suspension or withdrawal of the authorisation, to explain the reasons for any such non-compliance or violation and, if applicable, to regularise the situation by a date to be specified.

12. In the third case (imperative reasons), the Minister may grant the operator a hearing, provided that such a hearing does not undermine the effectiveness of the suspension or withdrawal of the authorisation.

13. In the event that the authorisation is suspended or withdrawn, provisional management measures, in particular with regard to outstanding contracts binding the operator, may be adopted at the latter's request.

14. When a space object is in flight at the time the authorisation is suspended or withdrawn, the Minister takes all necessary measures to ensure the security of the operations. In this regard he may in

particular entrust the management of the activities to a third party or transfer them to a new operator.

III. the transfer of activities

Can the operator transfer its activities and under what conditions?

15. The operator may transfer the activities covered by the authorisation to another operator provided that such a transfer is authorised by the Minister.

16. The transfer referred to by the Law concerns the effective control of the space object (see 3), irrespective of the legal nature of the rights transferred. That means that the sale of the satellite or it being pledged as collateral to a third party does not in itself constitute a transfer within the meaning of the law and does not require any authorisation by the Minister. On the other hand, if the operator maintains the ownership of the space object, but sub-contracts its *effective control* to a third party, that constitutes a transfer which must be authorised.

17. The transfer authorisation application must be submitted by the transferee operator. The same procedure and arrangements as those applying to the original application for authorisation apply.

18. The Minister may attach conditions to the transfer; those conditions are binding on both the transferee operator and the transferor operator.

19. When the transferee operator is not established in Belgium, the Minister may make the transfer authorisation conditional on the prior conclusion of a specific agreement with the State of the party in question. That agreement must in particular specify the arrangements with regard to the supervision of activities, any sharing of liability, exchanges of information, etc.

IV. the National Register of space objects

What is the National Register of space objects?

20. The National Register of space objects enables Belgium to register all space objects for which it is, alone or jointly with other States, the *Launching State* within the meaning of Article VII of the Outer Space Treaty of 1967, Article I of the Convention on International Space

Liability of 1972 and Article I of the Convention on Registration of Space Objects of 1975.

21. Such registration has two main purposes:

- it is intended to enable the space object, its component parts or debris to be identified;
- it places the space object under the jurisdiction and control of the Belgian State.

In addition, registration enables the space object to be entered in the Register kept by the Secretary General of the United Nations.

22. The registration must be effective when the space object is launched.

23. Entries in the National Register are made by the Minister who ensures that the conditions of registration by Belgium have been duly satisfied.

24. The registration entry includes a series of data relating to the space object and which are set out in the Law.

25. Updates to the data entered in the National Register must be communicated to the Minister by the operator at the latter's expense.

26. In addition to the National Register, the Minister keeps a register of *authorisations issued* listing the terms and conditions attached to each authorisation, as well as the name of the Launching State and the State of Registry for each space object.

27. The National Register of space objects and the Register of authorisations are accessible to everyone and are published on the Internet.

V. liability for damage caused by space objects

What happens in the case of damage caused by a space object for which Belgium is the Launching State?

28. When the Belgian State is liable for reparation in respect of damage pursuant to Article VII of the Outer Space Treaty of 1967 or the provisions of the Convention on International Space Liability of 1972, the Law provides for a right of recourse against the operator.

29. The amount of the compensation under such an action is determined in accordance with the procedure established by the Law.

30. The Law extends the benefit of the international liability of the Belgian State for damage caused by a space object for which it is the launching State to *victims who are Belgian nationals*. As regards the latter, the procedure set out in the Convention on International Space Liability of 1972 for the evaluation of the damage does not apply. The Law therefore provides for an *ad hoc* procedure.

31. The amount of the compensation determined in accordance with the applicable procedures may be limited by the King. That limitation may be based, for example, on a percentage of the operator's average revenue. The aim of that limitation is:

- to avoid the operator having an unlimited liability, objective in certain cases, which is first of all the responsibility of the Belgian State;
- to enable the operator to insure the risk under reasonable conditions.

32. However, the ceiling on the operator's liability established by the King shall not apply

- when the operator does not comply with the conditions to which it is subject;
- when the operator fails to inform the crisis centre designated by the King of any anomaly, malfunctioning or any danger arising during its activities;
- when the operator carries out the activities without authorisation or with an authorisation obtained on the basis of incomplete or inaccurate information.

33. The Belgian State's action against the operator is in no way linked to the actions that it might institute against third parties or other launching States. That action is completely independent and is based solely on the creation of a debt for liability on the basis of Article VII of the Outer Space Treaty of 1967 and/or the provisions of the Convention on International Space Liability of 1972 or the provisions of the Law extending the liability of the Belgian State to its nationals.

34. Nor does the action instituted by the Belgian State exempt the operator from other liability actions against it. However, it goes without saying that such actions must take account of any compensation which may have already been paid by the operator and the Belgian State pursuant to their respective liabilities.

VI. miscellaneous questions

What happens when a space object falls on Belgian territory?

35. That object or the debris must be handed immediately to the competent authorities so that it may inform the Minister who shall take the necessary measures to identify the space object or debris and return such to the State of registry.

36. If, during its fall, the object or debris in question has caused or might have caused damage to persons, property or the environment, the Minister takes the necessary measures to safeguard the object or objects found in order to protect the rights and interests of identified or potential victims.

What sanctions can be imposed under the Law?

37. Other than the withdrawal or suspension of the authorisation and the loss of the benefit of the limited liability in the event of damage, the Law stipulates that any person carrying out without authorisation the activities covered by the Law or with an authorisation obtained on the basis of incomplete or inaccurate information communicated, is liable to a period of imprisonment ranging from eight days to one year and a fine of between 25 and 25,000 euros, or only one of those sanctions.

What must the operator pay under the Law?

38. No rights are payable under the Law.

The operator must however bear the following costs:

- the costs in connection with the impact studies,
- the costs of technical experts designated by the Minister in the framework of the Law,
- the costs related to updating data entered in the National Register of space objects,
- the duties fixed by the King covering the administrative costs to be paid when the application for authorisation is submitted.

When will the Law enter into force ?

39. The Law enters into force on the first day of the second month following its publication in the Belgian Official Journal. However, prior to its application, the Law must be completed by an implementing Royal Decree which itself has entered into force.

40. The Law stipulates that with effect from the date of its entry into force, operators active in Belgium have:

- 6 months to notify the Minister of the activities that they carry out and which may fall within the scope of the Law;
- 12 months to obtain an authorisation from the Minister for the activities for which such authorisation is required.

During that 12-month period, no activities covered by the Law may be transferred.

For further information:

Jean-François Mayence
Legal Affairs and International Relations
Space Research and Applications Department
Federal Office for Science Policy
e-mail: maye@belspo.be