Sky is not the limit

On the ministerial draft bill for a Space Act

4 November 2026

Licences, state recourse rights and ongoing information obligations: The ministerial draft bill for a Space Act *(**WRG**)* is intended to establish, for the first time, a general legal framework for private space activities in Germany. Unlike, for example, the USA, France or the United Kingdom, Germany does not yet have a general Space Act. The draft serves to implement the Outer Space Treaty of 1967, the Outer Space Liability Convention of 1972 and the Outer Space Registration Convention of 1975. These treaties oblige Germany to authorise and continuously monitor private space activities, as well as to be liable to other states for certain types of damage. The requirement for authorisation stems, for example, from Article VI of the Outer Space Treaty.

To whom and to what does the Space Act apply?

The draft Space Act regulates so-called **space activities** and the **operation of launch facilities**, see Section 1(1)(1) of the WRG. Space activities include, for example, the launch, control or recovery of space objects into the atmosphere. Section 2(1)(5) of the WRG, in turn, defines space objects as an object or a component thereof which is intended to be launched into space, or which is launched with the intention of reaching space. According to the WRG, space begins at an altitude of 100 km above sea level. Particularly covered are therefore satellites, probes, launch vehicles or other capable space transport systems.

In terms of personal scope, the Act applies to natural persons of German nationality and German legal entities governed by public law, such as research institutions. At the same time, **legal entities or associations of persons that have their registered office or administrative headquarters within the territory of the Federal Republic of Germany** fall under the draft Space Act.

Finally, the Act applies only to those covered activities that are launched from German territory or from mobile launch facilities registered in Germany, such as ships or aircraft, in accordance with Section 1(1)(2) and (3) of the WRG. The draft thus aligns with the concept of the “launching state” under international law.

Authorisation procedure

According to the draft, all private space activities and the operation of a launch facility will, in principle, require a licence. Provided the legal requirements are met, there is a **non-discretionary right to the grant of such a licence**. However, the draft leaves open,

under Section 37 of the WRG, the question of who will be responsible for issuing licences.

The licensing requirements are stringent; in particular, the initial application is likely to entail a considerable amount of documentation. In addition to reliability, professional competence and operational capability, applicants must, for example, set out and describe the planned activities, including risk mitigation, the prevention of space debris and the termination of the activity (see Section 6(2) of the WRG).

The draft acknowledges the organisational burden and provides for several simplifications for applicants. For the industry, particularly manufacturers of space objects, the **type determination** under Section 7 of the WRG is likely to be of particular interest. It establishes, with effect for future authorisation procedures, that a space object meets the authorisation requirements for specific space activities. Another welcome provision is the **deemed authorisation** under Section 6(7) of the WRG. If the authority fails to make a decision within 90 days of receiving the complete documentation, the authorisation is deemed to have been granted. However, this provision will not take effect until five years after the WRG comes into force. The draft justifies this delay on the grounds of a lack of authority experience in this specific regulatory field.

Right of recourse by the State

The draft also provides that the Federal Republic of Germany may seek recourse against the entity responsible for a space activity or the operator of a launch facility if, by virtue of its obligations under international law, it was required to pay compensation for damages (Section 27(1) of the WRG) and has in fact paid such compensation. Germany's liability under international law is far-reaching in this regard: launching states are liable, for example, regardless of fault, for all damage on the Earth's surface or to aircraft in flight that occurs in connection with a space activity on the territory or to the legal interests of other states (see Article 2 of the Outer Space Liability Convention).

However, "national" recourse between the Federal Republic and the operator is subject to a tiered system:

- If, at the time of the damage, a licence for the space activity or for the operation of the launch facility was in place and the operator acted neither with intent nor with gross negligence, the maximum recourse is capped at an absolute limit of 50 million euros:

- If the damage is related to an unauthorised space activity or the unauthorised operation of a launch facility, this upper limit does not apply (see Section 27(2) of the WRG).

- The maximum liability limit also does not apply if ancillary provisions in an existing licence have been disregarded.

It remains to be seen whether and to what extent this provision poses a genuine risk to businesses. As far as can be ascertained from publicly available sources, cases in which a state has been required to pay compensation for damages under international treaties are extremely rare.

Access rights of the German Armed Forces

Finally, it is worth noting that Section 16(1) of the WRG provides that a German Armed Forces administrative authority may require a party engaged in a space activity to give priority to the provision of services in the context of a specific activity, provided that this is necessary for defence purposes and that the provision of such services cannot be secured by other means, cannot be secured in a timely manner, and can only be secured at disproportionate cost. In principle, there is an entitlement to market-based compensation for the provision of the service, or at the very least to compensation covering costs plus a reasonable profit margin, Section 16(2) (1), of the WRG. The draft bill justifies the fact that no compensation is paid for loss of profit on the grounds that no market (yet) exists for certain services. In view of the far-reaching economic and financial consequences of making such a claim, it would be desirable for this aspect to be further clarified during the ongoing legislative process and, amongst other things, for clear provisions on the loss of profit to be established.

Outlook

The regulation of private space activities will continue to increase as the sector's economic and security significance grows. Last year, the European Commission also set the tone at European level with its proposal for the EU Space Act. It remains to be seen, both for the EU Space Act and for the detailed implementation of the WRG, whether the needs of the companies involved, and in particular those of the start-up scene, will be taken into account. The focus is on reducing bureaucracy, ensuring swift and straightforward authorisation procedures, providing legal certainty in liability cases, and establishing flexible and technologically open regulatory and administrative practices.

***

BLOMSTEIN will closely monitor further developments and keep you informed. If you have any questions on the Space Act, Christopher Wolters, Nils-Hendrik Grohmann and the entire team is ready to assist you.

BLOMSTEIN | We provide legal support to our international client base on competition, international trade, public procurement, State aid and ESG in Germany, Europe, and – through our global network – worldwide.