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Agreement between Croatia and the European Space Agency

ABSTRACT: *This article aims to present an agreement between Croatia and the European Space Agency that was concluded in 2018. The Agreement is the first act establishing formal cooperation between the European Space Agency and the Republic of Croatia, making it a significant step in the process of Croatia's entry into the framework of European cooperation for space exploration. Therefore, after a brief introduction, this article begins by explaining the nature of the different types of connections between the European Space Agency and states. Thereafter, the position of the Agreement in the wider framework of space law is recalled, mentioning the specificities of Croatia (not) being party to core treaties that form space law. Subsequently, the Agreement is examined, highlighting some of the articles which seem more interesting from the perspective of general international law. Finally, an overall assessment of the Agreement is given, especially when considering what it may mean for Croatia to position itself in the European states' network for the exploration of outer space.*

KEYWORDS: *space law, Croatia, European Space Agency, agreement, cooperation*

1. Introduction

Given the immense resources and costs associated with outer space exploration, smaller states are compelled to join efforts if they want to participate in the ever-broadening field of space research. The European Space Agency, an international organisation founded in its present form in 1975, was, from the very beginning, created with this very aim in mind.¹ The preamble of the Convention for the establishment of

1 The idea of creating a unified European Space Agency was conceived at the ministerial meeting between the states already participating in joint European space exploration programmes held in 1973 in Brussels. Afterwards, it was formalised in the Convention for the Establishment of the European Space Agency, signed in 1975, and entered into force on 30th October 1980. See in

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the European Space Agency thus reads that the state parties to the convention have agreed to form a single European Space Agency, '[c]onsidering that the magnitude of the human, technical and financial resources required for activities in the space field is such that these resources lie beyond the means of any single European country'.²

From the time of the conclusion of the aforementioned convention and its subsequent entry into force in 1980, political landscape of Europe changed significantly. In Central and Eastern Europe, after the fall of communism during the 1989–1991 revolutions, many states were willing to engage in various ways of European cooperation and integration, one of which was the exploration of outer space. The European Space Agency provided a format for this particular part of the emerging cooperation.

Having already established itself in a wide range of activities during the past decades,³ joining or, at least, entering into some form of cooperation with the European Space Agency became a topic on the agenda of both scientific communities and foreign policy creators of states that were exiting one era and entering another. Therefore, this paper aims to present the nature of the cooperation between the European Space Agency and the Republic of Croatia. This cooperation is grounded in an Agreement between Croatia and the European Space Agency, a treaty concluded in 2018.⁴

The Agreement and its provisions will be analysed, with an emphasis on those that are more interesting from the perspective of general international law. Moreover, the Agreement will be positioned in the context of a wider framework of space law, while highlighting the inconsistencies in Croatia's participation. Finally, conclusions regarding the significance of the Agreement for instigating space research activities within Croatia will be given. Before that, however, a short overview of the nature of the connection between post-communist states in Central and Eastern Europe and the European Space Agency has to be provided.

detail: Russo, Arturo, *The Scientific Programme Between ESRO and ESA: Choosing New Projects (1973-1977)*, ESA Publications, Noordwijk, 1995, str. 1-3.

2 The full text of the Convention for the Establishment of the European Space Agency available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%201297/volume-1297-I-21524-English.pdf> (accessed: 16 November 2022).

3 From its very establishment the European Space Agency built upon already existing programmes of European cooperation in the fields of the exploration of outer space, which developed in the fields of telecommunication satellites owned and operated jointly on behalf of different European states. New programmes were added relatively quickly after the creation of the European Space Agency. See: Russo, 1994, also: Sebesta, 1996, pp. 11-14.

4 Agreement between Croatia and the European Space Agency, official full text available (in Croatian) in: *Narodne Novine-Međunarodni Ugovori*, no. 5/2018.

2. Nature of the Connection between Individual States and the European Space Agency

Different post-communist states established connections with the European Space Agency in various capacities and timeframes. Hence, their participation in the European Space Agency also differs in type and nature, especially regarding the governing bodies of the European Space Agency.⁵ Here, the nature of the possible connections between the European Space Agency and states is briefly explained. In essence, the European Space Agency is an intergovernmental organisation; thus, states form its membership, which entails formally becoming parties to the 1975 Convention for the establishment of the European Space Agency.⁶ This is a classic way of connecting a state to an international organisation, and these states have a direct influence on the governance of the European Space Agency through its governing bodies (organs), namely, the Council which is composed of representatives of all member states. Estonia, Hungary, Poland, the Czech Republic, and Romania are among the states that have used this traditional path to become involved in the work of the European Space Agency.⁷

However, in its subsequent practice, the European Space Agency established other ways of connection and alliance with states that were not its full members. These non-full-member states are further divided into groups of associate members and states that have a special cooperation agreement with the European Space

5 According to Articles X and XI of the Convention for the Establishment of the European Space Agency, the supreme governing body of the European Space Agency is the Council, composed of representatives of member states (Article XI, Paragraph 1). It meets either at the ministerial or delegate level, and is headed by a chairman elected by the Council every two years (Article XI, Paragraphs 2 and 3a). Decision making in the Council is by voting in which, as a general rule, each member state receives one vote, there is no voting rights pondered according to the size of financial contributions (Article XI, Paragraph 6a). However, member states are precluded from voting 'on matters concerning exclusively an accepted programme in which it does not take part' (Article XI, Paragraph 6a). Moreover, in Article XI, Paragraph 6b, there is an elaborate mechanism linking (temporary) loss of voting rights with financial contributions of states, as those are crucial for European Space Agency to operate and fund its activities (see, e.g., European Space Agency Annual Report 2021, p. 39, available at: https://esamultimedia.esa.int/docs/corporate/ESA_2021_Annual_Report.pdf (accessed: 16th November 2022)).

6 Accession procedure to the Convention for the Establishment of the European Space Agency is regulated in Article XXII of the Convention. It is fairly simple, requiring that the state wishing to join the Convention must notify the Director General who will then submit the request to the Council of the European Space Agency for a decision, which must be a unanimous one, meaning that all member states vote in favour of admitting new member to the European Space Agency.

7 Timeline of accession of these states to the Convention is as follows: 1) Czech Republic (18th Member State on 12 November 2008); 2) Romania (19th Member State on 22 December 2011); 3) Poland (20th Member State, September 2012); 4) Estonia (21st Member State on 4 February 2015); 5) Hungary (22nd Member State February 2015).

Agency. Some post-communist EU states belong to these two groups. Indeed, associate members are only such states, with the group comprising Latvia, Lithuania, and Slovenia.⁸ Among the states that have separate cooperation agreements are Bulgaria, Slovakia, and Croatia, to name only those belonging to Central and Southeastern Europe.⁹ There are at least two reasons for this diversity of possibilities for states to formally connect with the European Space Agency. The first is the natural desire of both the European Space Agency and the scientific communities of the respective states to get involved with each other and cooperate. To achieve this and formalise the cooperation framework, the European Space Agency created the so-called Plan for European Cooperating States.¹⁰ It enables states to, after concluding their first framework agreement with the European Space Agency, become involved in a more formalised manner, preparing them for associate and, eventually, full membership.¹¹ Thus, the agreement serves a practical purpose for a state, which is to start cooperating with the European Space Agency, as it is a prerequisite to benefit more elaborate cooperation¹² under the aforementioned Plan for European Cooperating States, to which concluding an Agreement serves as the first condition to become a part of. The other set of reasons could, arguably, be found in Article 13 of the European Space Agency Convention of 1975. Long and detailed, Article 13 governs the financial

8 Associate membership is described as a 'special cooperative status' for states which are not full members of the European Space Agency but still participate in various European Space Agency 's programmes, designed to prepare associate members for full membership. In general, associate membership is devised by Article XIV Paragraph 3 of the Convention for the establishment of the European Space Agency and terms and conditions under which a state can become an associate member of the European Space Agency are further decided by the council. In brief, see: https://www.esa.int/About_Us/Business_with_ESA/Programme_for_Associate_Member_States (accessed: 16th November 2022).

9 Bulgaria and Slovakia concluded a cooperation agreement with the European Space Agency in 2015, while Cyprus followed suit in 2016, and Croatia in 2018.

10 For basic information on the Plan for European Cooperating States, see: https://www.esa.int/About_Us/Plan_for_European_Cooperating_States/General_overview (accessed 17th November 2022).

11 Under the framework of the Plan for European Cooperating States, a progression of state's involvement with the European Space Agency is devised in five year steps, starting with the conclusion of the cooperation agreement, which is a precondition for entering the Plan's framework as a European cooperating state. Afterwards, a path opens for associate and, finally, full membership. Both the involvement in the European Space Agency's programmes and financial contributions gradually increase for a state which is participating in the Plan.

12 Article 10, Paragraph 2 of the Agreement, in addition to limiting the Agreement to five years, thus prescribes that the Republic of Croatia and the European Space Agency will, during the last year of the validity of the Agreement, conduct consultations on the possible modes for continuation of cooperation. Moreover, the possibility for conclusion of the agreement on associate membership as a possibility for enhancement of cooperation is explicitly mentioned in the last sentence of the Paragraph, thus enhancing a view of the Agreement being a first step to a process of Croatia's joining more elaborate cooperation with the European Space Agency, possibly culminating in full membership.

contributions of member states to the European Space Agency.¹³ These contributions can impose a significant burden on smaller states. In combination, these two sets of reasons logically give rise to the European Space Agency's willingness to become involved with states other than its full members. One of such states is, as already mentioned before, Croatia.

The Agreement between the Government of the Republic of Croatia and the European Space Agency on space cooperation for peaceful purposes was concluded on 19 February 2018 and entered into force in July of the same year in accordance with its Article 10 Paragraph 1, after the ratification in the Croatian Parliament was successfully accomplished.¹⁴ The circumstances in which the agreement was concluded were specific and relevant, especially when considering Croatia's position as the newest member of the European Union, to which it acceded on 1 July 2013. By the time of the conclusion of the agreement, Croatia was the only member state left with which the European Space Agency had not formalised its relations in one of the aforementioned ways (full or associate membership or cooperation agreement). These facts are recalled in the preamble to the agreement, which cites the relevant acts of the European Space Agency and EU, especially their Framework Agreement of 2003 (entered into force a year later in 2004).¹⁵ Thus, the agreement, in a way, provides an important element of enhancing cooperation within the wider EU framework and is not only restricted to bilateral cooperation between the European Space Agency and Croatia, although its legal nature is, without doubt, that of a bilateral agreement.

13 Article XIII prescribes that each member states has an obligation to contribute to the European Space Agency for two basic purposes. The first type of contributions are those covering the expenses of the European Space Agency for programmes (those that are, in turn, described in Article V). The second type of contributions are those paid for covering the 'common costs' of the European Space Agency, those being regular cost of everyday running of the European Space Agency. Under Article XIII, there are further rules as to the scale of contributions, time-restricted reduction of contribution, and special payments for new members.

14 Article 10 of the Agreement states in Paragraph 1 that the Agreement enters into force on a day on which European Space Agency receives a notification that Croatia's internal procedure required for the Agreement to enter into force is concluded. Croatian Parliament (Hrvatski Sabor) ratified the Agreement in its plenary session by a vote on 6th September 2018. It was then, in accordance with the Croatian constitution, promulgated by the president of the Republic on the 10th day of the same month.

15 The preamble to the Agreement cites relevant part of the Article 1 of the Framework Agreement between the European Community and the European Space Agency which provides for 'The establishment of a framework providing a common basis and appropriate operational arrangements for an efficient and mutually beneficial cooperation between the Parties with regard to space activities in accordance with their respective tasks and responsibilities and fully respecting their institutional settings and operational frameworks'. Full text of the Framework Agreement between the European Community and the European Space Agency available in Official Journal of the European Union, L/261.

3. Position of the Agreement in the Wider Framework of Space Law

Regarding the wider framework, the preamble of the agreement further mentions universal international treaties and agreements on the exploration and exploitation of outer space.¹⁶ Notably, the preamble of the agreement contains references to arguably the most important treaty of the so-called space law treaty complex: the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.¹⁷ Regarding other treaties that govern outer space, they are mentioned within the same part of preamble summarily, as 'other treaties adopted by the members of the European Space Agency and the Agency itself'. At this point, it is interesting to note the official position of Croatia regarding treaties that form the core of the so-called space law. Beginning with the Outer Space Treaty of 1967, it is quite peculiar that Croatia was still not a party to the widely accepted international agreement when the agreement with the European Space Agency was concluded in 2018. In 2022, this changed, as Croatia signed the Outer Space Treaty, with the clear intention of becoming a party as soon as possible.¹⁸

Eventually, the Croatian Parliament (the Sabor) ratified the Outer Space Treaty on 8 February 2023 and the President of Croatia signed the ratification bill into law

16 Precisely, only the Outer Space Treaty of 1967 is mentioned explicitly in the preamble to the Agreement, while other treaties governing exploration and exploitation of outer space are mentioned only summarily, as: 'other multilateral treaties of which the member states of the Agency are parties and which were accepted by the Agency'.

17 For the text of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, see: United Nations Treaty Series, vol. 206, 1967.

18 According to the Article XIV of the Outer Space Treaty, 'This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time'. However, in Paragraph 2 of the same Article it is prescribed that 'This Treaty shall be subject to ratification by signatory states'. For Croatia, the Treaty, having been signed by the representatives of the government, is currently pending ratification in front of the Parliament (the Sabor). See: <https://n1info.hr/english/news/croatia-joins-1967-outer-space-treaty-paving-the-way-for-space-exploration/> (accessed 23rd November 2022). In an explanatory note to the submission of the Draft Law on Ratification of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, sent by the Government of Croatia to the Croatian Parliament, it is stated that 'This law ratifies the Treaty which will enable the Republic of Croatia to more closely contribute to the development of space policy. Moreover, it is important to note that the Treaty has 112 state parties, and that, out of the EU member states, only the Republic of Croatia and the Republic of Lithuania are not parties to the Treaty'. (translated by the author, for the document in Croatian see: https://www.sabor.hr/sites/default/files/uploads/sabor/2022-11-10/163602/PZ_412.pdf (accessed 23rd November 2022)).

two days later, thereby concluding the process of Croatia's accession to the primary international law document governing outer space.¹⁹ Here, a short step-back should be made, emphasising this inconsistency. Recalling a treaty in which a state is not a party as relevant in a preamble of another instrument may seem inconsistent. Strictly speaking, this position should be agreed upon, but the nature of the provisions of the 1967 Outer Space Treaty provides some help in resolving the potential difficulties that may arise. At present, it is clear that most, if not all, provisions of the Outer Space Treaty reflect customary international law.²⁰

However, if and when differences between the Treaty's provisions and customary law arise, Croatia will, due to the aforementioned provisions, be bound by the relevant parts of the Treaty, at least for interpreting the Agreement. This follows from the basic principle of interpretation, namely, that the *lex specialis derogat legi generali*. The same can be argued for other treaties forming the space law, although Croatia is a party to at least some of them. Putting aside the aforementioned interpretation, with Croatia joining the Outer Space Treaty, the inconsistency becomes less stringent; however, somewhat of a feeling of resentment remains. A state not being a party to a treaty that forms the cornerstone of space law, while at the same time concluding an Agreement that should serve as a basis for a relatively nuanced cooperation in the field of space exploration and science of outer space is indeed an upside-down position. It should have been logical to first become a party to the cornerstone of the space law, the Outer Space Treaty, as a prerequisite to starting the procedure of negotiations for the Agreement. This would enable the Republic of Croatia to rescind any doubts around the framework under which the Agreement will be applied.

Moreover, it would serve as a strong statement of the commitment of a state to start a new chapter in the development of its space activities. Therefore, Croatia's decision to join the Outer Space Treaty should be viewed positively, although the feeling remains that the process was undergone in a somewhat wrong order during the creation of a legal framework for Croatia's space activities. Regarding other core treaties of space law, Croatia is a party to the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space (the

19 Paragraph 2 of the Article XIV prescribes that „This Treaty shall be subject to ratification by signatory States.“ See also the Law on the Ratification of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, text available (in Croatian) in: Narodne novine-Međunarodni ugovori, no. 2/2023.

20 On the views of both states and the international jurisprudence on the customary nature of provisions of the Outer Space Treaty, see: Responses to the set of Questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, Fifty-sixth session of the Legal Subcommittee of the Committee on the Peaceful Use of Outer Space, A/AC.105/C.2/2017/CRP.6, 2017.

so-called Rescue Agreement) of 1968 and the Convention on International Liability for Damage Caused by Space Objects (the so-called Liability Convention) of 1972.

However, it is neither a party to the Convention on Registration of Objects Launched into Outer Space (the so-called Registration Convention) of 1975 nor the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the so-called Moon Agreement) of 1979.²¹ We should now turn to the Agreement proper, examining some of the stipulations found in its articles, to get a robust look into the nature and legal framework of Croatian cooperation with the European Space Agency.

4. Agreement Proper: Selected Articles and Their Interpretations

4.1. Purposes, Fields, and Ways of Cooperation: Articles 1 and 2 of the Agreement

Moving away from the preamble of the Agreement and its position in the framework of space law in general, its first few articles regulated the purposes, fields, and ways of cooperation. Article 1 thus generally regulates the purposes of cooperation, stating that the purpose of the agreement is to provide a legal framework for the parties in the fields of exploration and peaceful exploitation of outer space and for projects of mutual interest.²² Articles 2 and 3 are framed as further elaboration of the general purposes established in Article 1 and are generally technical in nature, providing a legal framework for the mobility of staff of the European Space Agency and research institutions of Croatia, mutual scientific conferences, promotion of knowledge and sciences on the exploration of outer space, and so on.²³ It will be for the space sector in Croatia to take advantage of some of the fields of cooperation mentioned in these articles to the Agreement and use the possibilities they open.

From the legal point of view, more interesting however are Paragraph 2 of Article 2 and Paragraph 1 of Article 3. They provide a tool to further elaborate on legal and other practical issues regarding cooperation between the parties. By stipulating that

21 For the status of various treaties forming the space law, see: https://www.unoosa.org/res/oosadoc/data/documents/2022/aac_105c_22022crp/aac_105c_22022crp_10_0_html/AAC105_C2_2022_CRP10E.pdf (accessed 25th November 2022).

22 Article 1 of the Agreement thus states as follows: 'Purpose of this Agreement is to establish legal framework for cooperation between the parties in the field of exploration and peaceful use of outer space and conditions for development of projects of mutual interest' (unofficial translation).

23 Specifically, fields of cooperation named under Article 2 of the Agreement are space science, astronomy and astrophysics, exploration of Solar system and solar physics, telecommunications, microgravity research, etc.

subsequent agreements could be made, they however introduce a specific type of provisions to the agreement. Not unknown to international practice, on the contrary, very common especially in an era when international agreements become ever more complex in the scope of the issues they regulate, these agreements will, once concluded, present a subsequent practice in matters regarding the agreement.

4.2. Privileges and Immunities of the European Space Agency: Articles 3 and 6 Combined

Article 3 Paragraph 7 opens the question of privileges and immunities, which are granted to the European Space Agency by the agreement. By this article, duties on imports and exports from and to Croatia of goods and raw materials needed for purposes of projects of joint interest to both parties are levied. This, in turn, sheds light on another part of the agreement, namely, Article 6, in which further privileges and immunities provided for the European Space Agency and its staff while operating in Croatia are regulated. In its structure, Article 6 does not stipulate specific privileges and immunities. Rather, it recalls the well-known instrument, the Convention on the Privileges and Immunities of Specialised Agencies of the United Nations, from 1947.²⁴ Article 6 of the agreement provides that the European Space Agency and its staff will be accorded the same privileges and immunities as those accorded to United Nations specialised agencies under the 1947 Convention. Thus, the European Space Agency and its staff are granted functional immunity²⁵ while serving in their official capacity within Croatia, and questions of interpretation and scope, which would otherwise (in the case of prescribing specific norms on immunity within the agreement) surely arise sooner or later, are avoided.

Regarding the privileges and immunities of the United Nations and its specialised agencies, a significant body of practice of states and international jurisprudence exists,²⁶ so its implementation in the case of European Space Agency staff operating within Croatia should also not present a problem. Paragraph 2 of the same Article 6 prescribes that in subsequent agreements, further elaborations on how privileges and immunities will be implemented in cases of projects of mutual interest.

24 Full text of the Convention on the Privileges and Immunities of Specialised Agencies of the United Nations is available in: United Nations Treaty Series, vol. 33, 1949.

25 Functional immunity, in brief, means that protection of persons who enjoy it is confined to their performance of official functions within the state according them such an immunity. On nature of immunities of the international organizations, including the UN Specialised Agencies, see: Lapaš, Davorin, 2008, pp. 95–109. Also: King, 1949.

26 In that regard, as a groundbreaking, well-known example, the so-called Bernadotte case could be mentioned. See: Reparation for injuries suffered in the service of the United Nations, Advisory Opinion: I.C. J. Reports, 1949, pp. 174–220.

In our view, this stipulation should be carefully and narrowly interpreted. Any part of the possible subsequent agreements concerning privileges and immunities should be carefully designed to be strictly of an implementational nature. Otherwise, a situation of legal uncertainty might arise, specifically one in which something written in the subsequent agreement could alter the privileges and immunities as granted to the European Space Agency staff by the agreement. Such a situation should be avoided because it could create a situation inconsistent with the agreement, which is the act from which all subsequent agreements are derived. Indeed, it could be argued that a subsequent agreement that would go beyond or restrict the privileges and immunities as provided by the agreement (and, in turn, the 1947 Convention) would be contrary to the agreement, as it would not present an elaboration but rather a new rule. This conclusion is only further affirmed by the already mentioned wording of Article 6, which mandates subsequent agreements to be restricted to only implementation and not to changes in the nature of the privileges and immunities.

4.3. Status of Croatia in Governing Bodies of the European Space Agency

Other ways of interaction between Croatia and the European Space Agency regulated by the agreement are the observer status of Croatia in the governing bodies of the agency and the exchange of information. It is stipulated that Croatia is allowed to be present at the meetings of the European Space Agency's Council, the Plan for European Cooperating States Committee, and other bodies subordinated to them. Croatia is to receive all the relevant materials needed for meaningful participation in the aforementioned bodies. The representation is to consist of one representative who is able to have an advisor present along with him. Specifically, being present means that Croatia will be accorded observer status, which does not accord it the right to vote (as it is not yet a member of the European Space Agency). However, even this can be considered an important step, as representatives of Croatia can participate at the meetings, insightfully observe the proceedings, and extract valuable information from such participation.

4.4. Dispute Settlement: Article 9

Of particular interest from standpoint of international law is, however, Article 9, which governs the settlement of disputes arising from the agreement. It stipulates that disputes that arise will be first addressed (and hopefully resolved) by means of consultation, an extra-judicial way of the settlement of international disputes. However, if this does not lead to a solution, a special arbitration tribunal is established

by the agreement. The composition of such an arbitration court is one well established in standards of international adjudication and, in many cases,²⁷ with every party naming one arbitrator and the president being nominated by joint consensus, and if this consensus is absent, by the president of the International Court of Justice.

Basically, it is a classical arbitration clause found in many international agreements. Article 9 also provides that a judgment resulting from such an arbitration would be final and binding for the parties. Furthermore, rules governing such an arbitration are to be laid out in a subsequent agreement that belongs to the same category as those already mentioned regarding the fields of cooperation, privileges, and immunities. In this case, such a subsequent agreement, which lays out the rules of arbitration, is indeed somewhat different from previous agreements of the same type because it actually establishes some rules and is not restricted only to implementation.

5. Current Status of Space Legislation and Policy in Croatia

The issues of the current status of space legislation and policy in Croatia are intrinsically linked to the agreement, which is the main topic of this article. Therefore, they deserve at least a brief overview. Sadly, as will be shown, space legislation and policy in Croatia constitute an underdeveloped to non-existent field of the municipal legal system. Croatia has no national space act nor any other piece of legislation which would substitute it, or at least partially be devoted to the regulation of space activities and the specific obligations of legal persons involved in them. To the best of our knowledge, there has never been even an initiative to begin the procedure of drafting such a piece of legislation, either at the academic or legislative level. Therefore, any initiative in space exploration and exploitation, be it public or private, is left without specific rules and legal provisions that would regulate it. Establishing whether this is good or not is beyond the scope of this article; however, increasing numbers of space activities and projects dealing with scientific and even commercial activities connected to, *inter alia*, this agreement might, in the future, possibly justify thinking about bringing up the topic of creating a legal framework for space activities in the Croatian national legal system.

Regarding policy, the outlooks are slightly better, at least partially, due to the subsequent developments in connection to this Agreement. The Ministry of Science and Education of the Republic of Croatia, which is a governmental department that conducted negotiations and concluded the agreement on behalf of the Government of

²⁷ On arbitration as a peaceful means of settlement of disputes in general, see: Shaw, 2008, pp. 1048–1056.

Croatia in the first place, set up a programme based on the Decision on Measures for Strengthening National Participation in Programmes of the European Union in the Field of Exploration, Innovations, and Space (hereinafter referred to as the Decision).²⁸ The Decision allows for government funding to be provided for preparatory stages of scientific research projects connected to, among others, programmes developed and facilitated by the European Space Agency. Therefore, the Decision is a tool for the implementation of the Agreement and presents a recognition of the need for governmental support for the Croatian scientific community wishing to engage with the European Space Agency on various activities for which the Agreement provides a general framework. The Ministry also provides a periodic evaluation of financial contributions provided to various research institutions, which shows that the measure has been indeed found to be useful and is used by the scientific community.²⁹

However, although the programme mentioned in the previous paragraph shows that governmental institutions recognise the potential of space exploration as a research activity, Croatia still lacks a comprehensive national space strategy. The initiative to adopt one, however, has been present in the Croatian public space and media for quite a while. The initiative came from a group of scientists and professionals involved in projects concerning outer space, which were organised by a non-governmental organisation called the Adriatic Aerospace Association.³⁰ The Association has held and is holding various meetings and consistently promotes peaceful scientific space activities in Croatia. Among these activities, advocating for a national space strategy holds a prominent place, as evidenced by the fact that the Association created an (unofficial, of course) draft of the text of the strategy.³¹ Although the analysis of this document, which is publicly available and has attracted at least some media coverage in Croatia³², goes beyond the scope of this article, it should be

28 Text of the Decision (in Croatian) is available at: <https://mzo.gov.hr/UserDocsImages/dokumenti/Medunarodna/Obzor2020/Obzor2021-2025//Odluka%20o%20mjerama%20za%20jacanje%20nacionalnog%20sudjelovanja%20u%20programima%20Europske%20unije%20u%20podrucju%20istrazivanja%20inovacija%20i%20svemira.pdf> (accessed 31 January 2023).

29 For a list of institutions to which financing was provided in accordance with the Decision, see: <https://mzo.gov.hr/vijesti/odluka-o-mjerama-za-jacanje-nacionalnog-sudjelovanja-u-programima-europske-unije-u-podrucju-istrazivanja-inovacija-i-svemira/4379> (accessed 31 January 2023).

30 For more information on work and organizational structure of the Adriatic Aerospace Association, see its website: <https://a3space.org/> (accessed 31 January 2023).

31 The text of the draft proposal for a National Space Strategy of Croatia is available, in Croatian, at: <https://a3space.org/wp-content/uploads/2020/01/Nacionalna-svemirska-strategija-14-12-18.pdf> (accessed 31 January 2023).

32 For example, see an article at: <https://www.tportal.hr/tehno/clanak/hrvatskoj-hitno-trebana-nacionalna-svemirska-strategija-ako-to-ne-shvatimo-nepovratno-cemo-zaostati-20200129> (accessed 31 January 2023).

noted that in its various propositions and ideas, the notion of enhancing cooperation with the European Space Agency occupies a prominent place.

6. Conclusions and Final Assessments

Finally, we present an overall assessment of the Agreement. It can hardly be doubted that a formal, regulatory framework for cooperation between the European Space Agency and Croatia and especially its scientific community that was lacking before this agreement was concluded. With it, a new relationship opened, or at least formalised, as cooperation between the European Space Agency and Croatian scientific institutions existed beforehand at the individual level. Arguably, the most important feature of the Agreement is that it enables Croatia to become involved with the European Space Agency and its broad range of activities in space exploration in a formalised manner. Moreover, the Agreement is a first step into the path of Croatia's eventual accession to the European Space Agency and, as such, has a value outreaching its actual contents. From a purely legal viewpoint, the agreement is of a classic structure and shows many features common to treaties of various kinds.

However, it is interesting to note how subsequent agreements operate within the framework of the agreement and the privileges and immunities accorded to the staff of the European Space Agency while operating in Croatia, even though Croatia has not become a member of the agency. In conclusion, the Agreement provides a framework; however, its real impact on the space sector in Croatia³³ will depend on the proactive use of the opportunities it provides for both sides.

³³ For an overview of the emerging space sector in Croatia, See Orešković and Grgić, 2021, pp. 77–126.

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