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The Proposal for an EU Space Act: An Italian Perspective

Karolina Muti, Andrea Grillo, Sergio Marchisio and Michele Nones

The proposal for an EU Space Act arises in response to the growing economic, technological and strategic significance of outer space, as well as the rapid evolution of the European and global space markets, characterised by the increasing role of private actors, and represents an important step towards defining a European space regulatory framework. The European Commission aims to harmonise the regulatory framework governing European space activities and ensure compliance with high standards of safety, sustainability, resilience and data protection. However, the proposal raises significant political, economic, legal and industrial concerns, and risks to undermine competitiveness and innovation in the European space ecosystem by imposing considerable administrative burdens and compliance costs. Finally, the legal form of a regulation, rather than a directive, would not allow the necessary flexibility in a sector characterised by different national regulations and a high and widespread degree of unpredictability. In contrast, a directive would provide greater adaptability and would favour a constructive approach similar to that adopted with the NIS2 and CER directives.

1. The EU Space Act in the global and European context: Strategic implications

1.1 The EU Space Act emerges in the context of the growing strategic prominence of space for the European Union, both as an economic and technological sector and as a critical domain for the Union's security and defence, as well as for the resilience of European critical infrastructures. In recent years, the rapid evolution of the space market, characterised by the emergence of new private actors, accelerating technological innovation and increasing global competition, has prompted the EU to work towards a common regulatory framework.

1.2 The European Commission pursues a dual objective: on the one hand, to ensure a specific regulatory framework for all European space operators and those operating within the EU, thereby guaranteeing the proper functioning of the internal market in line with the principle of subsidiarity; on the other hand, to ensure that space activities adhere to high standards of safety, sustainability, resilience and data protection. It is essential that the EU maintains competitiveness and innovation as priorities in this process. The Space Act should be calibrated to support competitiveness, open strategic autonomy and innovation, not only in the long term but also in the short and medium term.

1.3 Furthermore, the Space Act is presented at a stage in which the EU seeks to strengthen its strategic autonomy, reducing dependencies on third countries – including in the space sector – within a volatile and unstable international context where even established alliances may

Karolina Muti is Senior Research Fellow in the "Defence, security and space" programme at IAI. **Andrea Grillo** is Junior Researcher in the "Defence, security and space" programme at IAI. **Sergio Marchisio** is Professor of Space Law and Emeritus Professor of International Law at Sapienza University of Rome. **Michele Nones** is Vice President of IAI. This document was prepared in August and September 2025 through consultations between the IAI team and representatives from institutions, the research and academic community and the industrial sector.

falter. While reinforcing Europe's strategic autonomy in crucial domains such as defence and space is urgent, this cannot disregard existing gaps in product and production process technologies. Building collaborative relationships with third countries to access technologies and services that the EU lacks is not inconsistent with pursuing an adequate level of strategic autonomy in certain technologies.

1.4 The presentation of the Space Act occurs at a delicate time for the European economy and its value chains, with some major powers, such as the United States and China, consolidating their positions of strength in the space sector, while others, such as India, have experienced rapid and significant growth that makes them partners with whom to cooperate but also compete on the global market. Against this backdrop, maintaining and enhancing the competitiveness of the European space sector should take priority over regulating the sector. This is particularly important because, in its current form, the EU Space Act envisages potential long-term cost reductions and increased competitiveness; however, it is in the short and medium term that critical challenges for European security and technological sovereignty will unfold. For this reason, it is essential that the burdens imposed on enterprises in the short run, particularly on small and medium-sized enterprises (SMEs) and start-ups, are balanced through concrete measures (see Section 9) accompanying the initial implementation of the Space Act, pending the long-term benefits mentioned in the proposal. Such measures would reduce the risk of discouraging early-stage investment and would contribute to preserving the innovative capacity of the industrial ecosystem.

1.5 In a period of economic slowdown for the European continent, with repercussions also affecting the space sector, it will be essential for the EU to send a positive signal regarding the prospects of the EU market and its regulatory framework, avoiding messages that could discourage potential operators and service providers. In the field of space innovation, product and service life cycles are significantly shorter, and therefore, the direct effects of new regulatory obligations on stakeholders could already be visible in the short and medium term. These additional obligations risk undermining competitiveness in favour of the regulatory dimension.

1.6 Finally, the EU Space Act falls into a delicate phase of transatlantic relations, characterised by intermittent tensions between the EU and the United States – a dynamic with particular implications for Italy, given the strategic relevance of its partnership with Washington. For non-EU operators seeking access to the European market, the new regulation would introduce non-tariff trade barriers. Such measures risk not only penalising European actors that are deeply integrated into global supply chains, such as Italy, and heavily reliant on export and foreign commercial activities, but also triggering disputes with the transatlantic ally. In particular, should compliance costs be perceived by US companies as excessive or disproportionate, tensions akin to those observed in the cases of the Digital Markets Act and the Digital Services Act could re-emerge. The EU should carefully assess whether, in this instance, the regulatory benefits outweigh the potential economic and diplomatic costs. In light of this, the Union could consider engaging in preventive transatlantic consultations aimed at promoting the use of equivalence mechanisms to mitigate compliance frictions, as well as targeted safeguard measures for dual-use and defence-sensitive programmes, in order to preserve interoperability within the Atlantic Alliance.

2. The legal basis of the EU Space Act

2.1 The adoption of an EU Space Law was identified as one of the priorities of the European space sector at the beginning of 2023, during the European Space Conference, by the then Commissioner for the Internal Market, Thierry Breton, and subsequently reaffirmed by the President of the European Commission, Ursula von der Leyen. The rationale behind the establishment of a European regulatory framework stemmed, among other factors, from the existence of diverse national legislations governing space operations in the EU, an element that could negatively affect both the competitiveness of industry and security. This priority was later confirmed in the Joint Communication to the European Parliament and the Council, issued by the European Commission

and the High Representative of the Union for Foreign Affairs and Security Policy on 10 March 2023. In the EU Space Strategy for Security and Defence (EUSSD), the introduction of a European Space Law was advocated to enhance the security and resilience of space operations and services within the EU, ensure their sustainability and strengthen coordination among member states. Subsequently, the Commission abandoned the term "EU Space Law" in favour of the more neutral and appropriate designation "EU Space Act".

2.2 The legal basis of the EU Space Act, beyond its purely juridical implications, constitutes a crucial and inherently political matter because it affects the balance of powers and the allocation of competences between the EU and member states. The choice to rely on Article 114 of the Treaty on the Functioning of the European Union (TFEU) rather than on Article 189, and to propose a regulation rather than a directive, has prompted significant debate and has been challenged by several member states, including Italy. Two distinct perspectives described below have emerged in this respect.

2.3 The first perspective considers the recourse to Article 114 TFEU appropriate, given that the proposal for an EU Space Act addresses the safety, resilience and sustainability of space activities. However, Article 189 TFEU, while empowering the Union to adopt measures to promote a) scientific and technical progress, b) industrial competitiveness and c) the implementation of Union policies, expressly excludes any harmonisation of member states' legislative and regulatory provisions; that exclusion nonetheless appears to conflict with the declared harmonisation objective of the draft regulation. In this light, Article 114 may enable an alignment of "variable intensity", ranging from the possibility of having a set of fully uniform technical rules to common minimum standards, with the stated aim of eliminating obstacles to the creation of a single European market for space services, products and data. With its 129 articles, the draft represents a significant innovation relative to the existing national space laws in force in thirteen member states, and in part certainly complements them. However, where legal overlaps arise, the scope of the Space Act must be clarified to avoid conflicts and contradictions. From this perspective, adopting a directive rather than a regulation would certainly provide useful flexibility to address foreseeable implementation difficulties, favouring dialogue with the Commission and enabling a scalable/progressive approach adaptable to a context characterised by high and widespread unpredictability.[1]

2.4 The second perspective contests the adequacy and justification for relying on Article 114 TFEU, noting that that provision is focused on the "establishment and functioning of the internal market". The proposal invokes Article 114 by reference to disparities in national legislation which are considered to be potentially obstructive to the functioning of the internal market. However, these assumptions do not appear to be sufficiently demonstrated in the case of the Space Act. This second perspective, therefore, considers that the demonstration of "tangible" obstacles to the internal market has so far been insufficient, and that the proposal risks intruding into matters of public policy such as safety and environmental protection.

This second perspective also raises questions about the extent to which divergent national approaches may hinder the commercial activities of space operators, and how national disparities in the security, resilience and environmental sustainability of space infrastructure may have a negative impact on the provision of space data and services in the Union.

Finally, critics see in the use of Article 114 the risk of creating an effectively exclusive competence of the Commission in these matters, notably through the conferral of delegated or implementing powers under the draft (Article 113), thereby generating implicit executive powers. Article 189, on the other hand, explicitly states that such competence does not exist, thus leaving member states greater room for manoeuvre. To avoid such constitutional tensions, several member states, Italy among them, have sought legal clarifications from the Legal Service of the Council of the EU and information on specific case studies of internal market fragmentation that might justify the invocation of Article 114.

2.5 The Commission should therefore

1 Please refer to Conclusions.

substantiate the recourse to Article 114 TFEU with greater precision and depth, for example by quantifying competitive distortions more clearly in Annex 6 of the Impact Assessment. Improved empirical grounding would help clarify the legal basis and facilitate the formulation of a proposal enjoying broader support.

3. Additional legal aspects: URSO, international treaties and the dual-use ambiguity

3.1 The proposal establishes an obligation for registration with the Union Register of Space Objects (URSO). URSO is an internal EU instrument for registering Union space operators authorised under Article 6(1) and notified to the EU Agency for the Space Programme (EUSPA) by the competent national authorities. However, the proposal uses misleading and ambiguous terminology when referring to the register, resulting in this chapter of the proposed law being unclear. In fact, the register will include information on space operators, rather than space objects, for the purpose of issuing them an electronic certificate (Article 25). This clarification is important, as the European Union has not acceded to the United Nations Convention on Registration of Objects Launched into Outer Space (Registration Convention – REG) of 1975. The obligation of registration also applies to operators from third countries, subject to narrow exemptions. This requirement could discourage the extra-EU supply of technologies and services and delay missions that rely on foreign data. It would, therefore, be advisable to introduce a fast-track mechanism for strategic technologies originating from EU partner countries (for instance, the United States, the United Kingdom, Canada, Japan and Norway), distinct from ordinary exemptions, in order to preserve critical data flows and ensure interoperability – for example, in the field of Space Situational Awareness (SSA). Moreover, the functioning of the URSO should avoid duplication or overlap with national and international registration regimes.

3.2 The absence of an operational definition of "dual-use" or "dual-purpose" poses uncertainties in terms of implementation, particularly concerning SSA data exchanges and dual projects with non-EU allies. It would be advisable to adopt a definition recognised at the EU level to resolve such ambiguities and thus prevent regulatory overlap with the domains of security and defence.

3.3 The draft Regulation makes almost no reference to the international treaties to which member states are parties (OST, ARRA, LIAB, REG),[2] but to which the EU itself is not a party. It would therefore be appropriate that, pending the EU's formal acceptance of the rights and obligations arising from these treaties, as has long been the case for the European Space Agency (ESA), the text of the Space Act include a supremacy clause affirming that the obligations stemming from these treaties take precedence for member states over those deriving from the Regulation. It is essential that the Space Act contain no provisions in conflict with the United Nations space treaties. Moreover, it would be advisable to include a compatibility clause with those treaties and with the ESA Convention, in order to prevent potential legal conflicts.

4. European space governance

4.1 The proposed governance model raises several questions regarding the distribution of competences, legal boundaries and the protection of sensitive data.

4.2 The harmonisation of the regulatory framework aims, among other things, to ensure the competitiveness of the European space sector. However, this objective is significantly affected by the fragmentation of governance across its political, institutional, decision-making and funding aspects. The Space Act does not address this structural fragmentation of European space governance, even though it reinforces the European Commission's prerogatives in the control and coordination of space activities. A situation similar to that already observed in the field of defence may occur, where, despite the substantial strengthening of the Commission's powers through the Directorate-

2 Outer Space Treaty (OST); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (ARRA); Convention on International Liability for Damage Caused by Space Objects (LIAB).

General for Defence Industry and Space (DG DEFIS), governance remains widely distributed, insufficiently streamlined and marked by tensions between EU institutions and member states. As in defence, space governance – which encompasses security, defence and dual-use and military research – is currently characterised by a multiplicity of decision-making centres at the EU level, alongside a delicate balance between the EU and ESA.

Fragmentation would, in fact, be further exacerbated by the adoption of the Space Act, which envisages the creation of additional bodies (a Compliance Board, itself subdivided into a Safety Board, Resilience Board and Environmental Board, as well as an Appeal Board) endowed with far-reaching investigative and sanctioning powers.

4.3 The Space Act is being advanced within a European context in which thirteen EU member states already have national space laws, to which Italy recently added its own Law No. 89 of 13 June 2025, "Disposizioni in materia di economia dello spazio".[3] This plurality of national laws may not be the main source of concern regarding fragmentation, as most member states' legislations share similar content and follow an "international" model designed to implement the UN space treaties to which they are parties, particularly the 1967 OST. A point of divergence naturally arises in the case of member states that make their territories available for launch services. Harmonisation of national space legislations would, however, clash with the prohibition of harmonisation enshrined in the TFEU (Article 189). Nonetheless, on space activities, the EU initiative aims to align member states' national competences to legislate with those of the Union. The latter would intervene to integrate and unify areas essential for the creation of a single market for space products and services, particularly technical requirements and criteria related to safety, resilience and sustainability, as well as activities directly involving the EU itself (such as EU-owned space assets).

4.4 Further clarification is needed regarding the derogations and the margins of flexibility in the authorisation process, the timing of authorisations and of the Regulation's application to non-commercial missions, as well as the inspection powers of the Commission and the operational roles of ESA and EUSPA. The same applies to the EU's power to adopt "light" regimes under Article 10 (including, among others, Articles 62 on safety, 79 on resilience and 96 on sustainability).

4.5 A crucial aspect of governance concerns the relationship between ESA and the EU. In its current form, the Space Act appears to consolidate EUSPA's role, granting it a central role in close coordination with and in support of the European Commission, while ESA remains largely a technical, technological and operational arm, without a substantive policy-making role. This emerges from the Regulation's wording (Article 108): ESA may act as a space operator for EU-owned assets and/or own space assets operating within the EU, including as co-owner with the EU (paragraph 2(b)); when not acting as operator, ESA may be tasked with conducting technical assessments (paragraph 2(a)); ESA also provides support on technical specifications needed for standardisation under the Commission's supervision (paragraph 2(c)) and may support member states in performing technical assessments (paragraph 3). ESA is also assigned a future status as a Qualified Technical Body (QTB) for space activities (paragraph 3). At the Commission's request, ESA may participate in technical Advisory Groups as a participant or observer (paragraph 4). The proposal defers a detailed definition of the ESA-EU relationship to a specific agreement between the two institutions (Article 108).

4.6 It will therefore be necessary to await the agreement between ESA and the EU mentioned above to assess how the ESA-EUSPA relationship will be structured. However, based on the draft Regulation, the envisaged distribution of roles does not substantially depart from the current situation and, therefore, does not follow ESA's ambitions to expand its role vis-à-vis the EU, including in the field of security. By contrast, the Regulation highlights the central roles of the Commission and EUSPA, only partly balanced by the establishment within EUSPA of a Compliance Board composed of member state representatives and one Commission representative (the latter

3 Provisions on the Space Economy.

without voting rights).

4.7 In accordance with the EU Treaties and member states' sovereignty prerogatives, the Space Act contains a clause preserving their competence regarding national security, excluding it from its scope (Article 4). The Regulation explicitly states that it does not apply to space objects used exclusively for national defence and national security purposes, nor to those temporarily placed under military control for defence purposes (Article 2). While this preserves defence as a member state prerogative, it also leaves room for developments within ESA should its member states decide to expand its mandate in this field. However, this could conflict with the EU's own efforts to strengthen its role in the same area. At the same time, the Commission may entrust the implementation of activities related to EU-owned space assets to an international organisation through specific agreements (Article 107), reaffirming ESA's existing operational role in several EU space programmes.

4.8 In this framework, the Commission, in coordination with EUSPA, would exercise supervisory powers over space operators managing EU-owned assets, operators from third countries and international organisations (Article 48). It would also hold extensive investigative powers (Article 50, particularly paragraph 4), as well as the authority to conduct on-site inspections within the EU (Article 51) and outside EU territory, subject to agreements with the third country concerned (Article 52). The exercise of these powers could lead the Commission to adopt supervisory measures, including administrative penalties and fines against operators (Articles 55 and 56). The Commission also retains the prerogative to issue or suspend authorisations for EU-owned space assets, with EUSPA contributing technical evaluations in this process.

4.9 The central role assigned to the Commission by the Regulation raises questions not only about the expansion of its competences in the space sector vis-à-vis member states, but also about the substantial administrative and bureaucratic burden associated with the Regulation's implementation and the exercise of the new powers. Exercising these powers entails complex procedures and constraints involving multiple stakeholders, which risk increasing the already burdensome and time-consuming administrative load perceived by many space operators and service providers. The current draft introduces immediate compliance obligations (such as incident management processes, supply chain risk management framework, integrated security plans, personnel vetting and the establishment of an Environmental Footprint – EF and of an Environmental Footprint Declaration – EFD) with direct impacts on SMEs and the broader supply chain. Without proportionality and targeted support measures, this could dampen short-term investment and beyond.

4.10 This burden affects all actors involved – the Commission, EUSPA, member states, space operators and service providers – and risks undermining the competitiveness of the EU space sector. The administrative and bureaucratic burden foreseen for the European space industry contrasts with the Commission's objective of simplification and reduction of bureaucracy announced in 2024 and envisaged, for example, by the Defence Omnibus initiative for the defence sector.

4.11 Given the complexity of implementing EU legislation where national frameworks already exist, a realistic adaptation period should be foreseen for member states and space operators, possibly preceded by consultation and training phases. Potential measures could include: launching a pilot phase with a flexible methodology for life-cycle assessment (LCA)[4] and initial compliance obligations; introducing regulatory sandboxes[5] on safety and resilience to test compliance without immediate sanctions; and explicitly defining proportionality criteria (risk classes) for cyber and safety measures.

4.12 It remains unclear to what extent member states will retain full control over authorisations

4 A life-cycle assessment is a structured methodology used to evaluate the overall environmental impact of a product, service, or activity throughout its entire life cycle, from the initial stage to disposal.

5 A regulatory sandbox is a tool – in the form of a regulatory mechanism – established by supervisory authorities that allows companies to test the application of new regulations in a controlled environment, benefiting from partial and temporary exemptions, such as reduced obligations and sanctions, while remaining under the strict supervision of the competent authorities.

or/and whether these functions should/will be shared with the EU. Conflicts with member states' national competences should therefore be avoided. It would, therefore, be desirable to also provide for structured mechanisms for resolving disputes between the Commission and/or EUSPA and national authorities. A clear definition of the powers vested in each institution (technical and support functions, authorisation, supervision and enforcement) would help reduce competence conflicts and strengthen institutional accountability. With this in mind, a periodic review of the governance framework, involving member states, ESA and industrial stakeholders, could also ensure a greater overall flexibility in the governance system itself.

4.13 The transmission of technical information to the EU in order to obtain the aforementioned e-certificate could entail the sharing of sensitive or commercially confidential data. It would therefore be necessary to adopt appropriate legal and operational measures to protect such data from unauthorised access or use, particularly in light of EUSPA's reinforced role.

5. Authorisation, supervision and certification

5.1 The EU Space Act establishes a common European system for the authorisation, supervision and certification of space activities. However, significant issues must be addressed to prevent regulatory overlaps and ensure effectiveness.

5.2 It would be advisable to prevent the new provisions in the Regulation concerning authorisation processes from creating conflicts with national procedures already in place, including those relating to the respective roles of the European Commission and EUSPA. The authorisation process should avoid duplicating existing national regimes and imposing excessive administrative burdens, particularly on SMEs and start-ups. It would be beneficial to request that the EU system include a digital one-stop shop and, in cases where discrepancies are identified during inspections, a grace period prior to sanctions – allowing operators time to remedy issues before financial penalties are applied, thereby offering certainty and protection to operators.

5.3 In the process of mutual recognition of authorisations among member states, mechanisms (e.g. a specific clause) should be introduced to discourage forum shopping, whereby operators select the jurisdiction with the least stringent requirements. To prevent such distortions, the Commission should harmonise minimum requirements and limit the additional conditions that member states may impose.

5.4 The authorisation process for space systems is inherently iterative and extends over time, often from the design and development phase to the launch phase. The timelines established by the Regulation must therefore take into account this specific characteristic and allow for a realistic adjustment period for space operators and service providers.

5.5 It will be essential for ESA and EUSPA, as well as other entities acting as Qualified Technical Bodies, to operate in a coordinated and complementary manner, avoiding double reporting and duplication of reporting processes, as well as overlaps between supervisory bodies or structures.

6. Third countries and international organisations

6.1 The international dimension of the EU Space Act is central to ensuring a balanced relationship with third countries, competitiveness and security.

6.2 In addressing relations with third countries, it must be recognised that some, such as the United States, Canada, Japan, the United Kingdom and Norway, are important allies and, in some cases, European partners contributing to European prosperity and security. The European industrial and technological sector is closely interconnected with its counterparts in these countries. It is therefore essential to avoid discouraging strategic partners from investing in or cooperating with the EU due to regulations and procedures perceived as complex and cumbersome. Accordingly, it would be advisable to propose an accelerated procedure for partners and/or strategic technologies to ensure access to data and rapid market recognition within the EU.

6.3 At the same time, bilateral agreements with several third countries are already in place. The proposed Regulation does not address this issue, and the EU will therefore need to clarify how these agreements integrate with or complement the obligations established by the Space Act.

6.4 Regarding third countries and the Commission's equivalence decision (Article 105), it is unclear how the Commission can prevent cases of unfair competition by space operators from third countries and, according to which concrete criteria, their equivalence can be assessed, potentially at the expense of the prerogatives of individual member states. If underestimated, this issue could lead to systemic risks of new strategic dependencies on space operators from third countries, or, conversely, to Commission vetoes on bilateral activities of a member state.

6.5 Cooperation agreements between EUSPA and the competent authorities of third countries whose regulatory and supervisory frameworks have been recognised as equivalent (Article 105(5)) should consolidate and formalise a systematic relationship with these states. The agreement should envisage that third-country competent authorities promptly notify EUSPA of any violations committed by space operators from their respective countries registered in URSO. It should also define procedures for on-site inspections and investigations by EUSPA of third-country operators. Given the industrial interdependence with various non-EU states, a fast-track process dedicated to strategic partners (again, the United States, United Kingdom, Canada, Japan, Norway), with an EU legal representative and adequate safeguards, would preserve supply chains without lowering the security standard. Furthermore, a reference to consistency with NATO (North Atlantic Treaty Organization) instruments would help avoid duplication of compliance requirements for operators subject to multiple frameworks. Overall, it would be useful to define measurable equivalence criteria to make non-EU operator access predictable and secure.

6.6 The Regulation should also take into account that in February 2025, NATO's Commercial Space Strategy was published and, considering the increasing number of countries with membership in both the EU and NATO, the Regulation should be consistent with and not conflict with the Alliance's strategy.

7. Resilience, security and sustainability requirements

7.1 The Space Act falls into an EU legislative and political framework in which several directives and regulations already apply, each connected in various ways to the space sector, ranging from the Network and Information Security 2 (NIS2) and Critical Entities Resilience (CER) directives to the Cyber Resilience and AI Acts. It will be essential for the Space Act to integrate coherently, coordinately and complementarily within this framework, avoiding overlaps, duplications and inconsistencies. In particular, it is important to maintain alignment between incident reporting flows and the supervisory functions of NIS2 and CER through the EU Space Resilience Network (EUSRN) and the Computer Security Incident Response Team (CSIRT), in order to prevent double compliance requirements.

7.2 Similarly, the rules concerning sustainability (for example, debris mitigation) must be consistent with the existing guidelines of the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) and ESA, as well as with international standards such as those of the International Organization for Standardization (ISO) and the European Cooperation for Space Standardization (ECSS).

7.3 As already indicated in point 4.11, it would be advisable to introduce a pilot phase for the LCA and Environmental Footprint, and to clarify the use of environmental performance classes (including for procurement purposes), ensuring their coordination with ISO/ECSS standards and COPUOS/ESA guidelines.

7.4 A more prominent risk-based approach should be ensured for mega- and giga-constellations, particularly concerning trackability, manoeuvrability and collision-avoidance capabilities.

8. Implications for European space technological and industrial capabilities

8.1 The implementation costs of the Regulation are largely borne by space operators (Article 41), including those from third countries and international organisations, while the text remains vague regarding the application of the principle of proportionality, which should be more clearly defined by the European Commission. Consequently, this approach risks discouraging both European and non-European operators from conducting activities within the EU.

The current proposal envisages a high overall compliance cost for space operators, both well-established and emerging, large and small. The proposed Regulation mentions additional charges that could lead to a 10 per cent increase in satellite manufacturing costs. For launch operators, the text cites additional costs of up to 1.5 million euros for heavy launchers and up to 200,000 euros for SMEs. The establishment of risk management mechanisms would also result in a 10 per cent increase in IT costs. One element of the cost that is not adequately accounted for concerns the inspection, sanctioning and auditing powers that would be granted to EUSPA. These powers would likely introduce new compliance obligations with potentially significant financial implications. Furthermore, the Regulation provides for the possibility of imposing fees on operators, proportionate to their turnover, to support EUSPA's operational costs.

Although the Regulation aims to facilitate operators by creating a harmonised legal framework, its economic burden could prove problematic not only for well-established space actors but also for emerging technological and industrial players, who would face higher entry and compliance costs. This, in turn, risks discouraging investment and slowing innovation and competitiveness in the European space sector, which already lags behind major players such as China and the United States. In this regard, the definition of requirements for space operators in the Regulation and its annexes appears overly specific to current technologies, without accounting for future technological advancements. This rigidity could further undermine Europe's capacity for innovation.

Against this background, serious doubts arise as to whether the compliance costs imposed on industry under the Space Act will be compensated by the expected benefits of its adoption. The proposed balance assumes that the Regulation will generate benefits for the industry through a 50 per cent reduction in space debris, higher cybersecurity standards, extended satellite lifespans and simplified administrative procedures.

However, these expected benefits appear as more aspirational than guaranteed, while the immediate, certain and potentially unsustainable increase in costs could jeopardise the EU's space economy. It is therefore advisable to refine and expand the ex-ante cost-benefit analysis of compliance – e.g. differentiated by enterprise size – to better safeguard the competitiveness of the European space sector.

8.2 To mitigate the economic burden, the projected costs should be partially compensated through a modulation of fees for SMEs and start-ups, alongside a substantial increase in the EU's space programme development budget and industrial–technological support, with concrete allocations starting from the 2028-2035 Multiannual Financial Framework (MFF). The support measures currently envisaged in the Regulation appear too vague to have a tangible positive impact on the forecasting and planning of activities in the European space sector.

8.3 Several EU space operators have developed global and deeply interconnected supply chains involving non-EU actors. The dual verification procedure for non-EU space operators by the Compliance Board and the Commission could endanger these value chains and, paradoxically, harm European operators, while discouraging non-EU companies that maintain strong ties to the EU internal market. A similar issue arises concerning access to space, as the Regulation requires that the use of non-EU launchers be justified by demonstrated strategic importance. This could mirror the situation currently affecting the defence sector: if non-EU operators are disincentivised from providing services or investing in the Union, EU space operators may be unable to meet internal demand for space services

in a timely manner.

9. Support measures

9.1 The support measures envisaged by the EU for space operators (Article 109) include the provision of guidelines and vouchers to facilitate their participation in coaching programmes aimed at counterbalancing new costs, the formulation of requirements for innovative sectors (e.g., on-orbit servicing) and the promotion of information-sharing, as well as the establishment of a digital information portal concerning the Regulation. Although these measures are valid, they appear to be rather limited in scope and of modest practical utility, given the complexity expected in implementing the proposal and in the financial planning of enterprises.

9.2 The European Commission intends to co-finance joint research and development (R&D) and capacity-building projects (Article 109, paragraph 2) to encourage industry to acquire technological solutions that facilitate compliance with the proposed Regulation. While this measure is undoubtedly functional to a faster enforcement of the proposal, it remains vague with respect to the budgetary allocation and the type of funding (permanent or temporary), thus preventing operators from estimating the degree to which such funding could offset the costs arising from the Regulation's implementation, which largely fall upon them.

9.3 Concerning the establishment of a Space Label (Article 111) for voluntary adherence to higher standards of protection of space activities, the proposed Regulation does not clarify which concrete incentives are foreseen for operators opting to participate and obtain the Space Label, nor does it specify what the higher standards entail or what overarching objective they aim to achieve. The Space Label could instead be linked to measurable incentives, for instance, through preferential scoring in EU calls for proposals, higher rankings in procurement processes, or access to regulatory sandboxes, thereby transforming this instrument from a purely reputational label into an effective economic lever.

10. Conclusions

10.1 The proposal for an EU Space Act presented by the European Commission has generated considerable debate both at the European and national levels, particularly among those member states most active in the space sector, as well as among some of the Union's principal space partners outside the EU. While many positive aspects of the initiative have been acknowledged, several concerns, reservations, and, in some cases, criticisms have also emerged regarding specific features of the Space Act. To summarise, its main challenges can be grouped into three closely interrelated themes:

- The choice of the legal basis, namely the reference to Article 114 of the TFEU;
- The content of the proposal in terms of its wide scope and operational detail, which in some instances has raised concerns regarding the resulting burdens on member states and operators, the risks for the overall competitiveness of the European space sector, and of competence conflicts between EU and national legislation;
- The decision to adopt a regulation, which, by its very nature, is characterised by intrinsic rigidity and the need to predetermine all implementing activities in a particularly detailed manner.

10.2 Regardless of the outcome of the legal assessment of the initiative, it is clear that the approval process will likely be slowed down, whereas, for several reasons, it would be preferable to reach a timely compromise that could strengthen the construction of an efficient and competitive European space market capable of supporting Europe's open strategic autonomy in this sensitive domain.

10.3 The first two critical aspects (legal basis and substance) may give rise to opposition and resistance that could have long-term negative repercussions for the European Union's cohesion in addressing the challenges emerging from the evolving international environment, both in terms of competition with other space powers and cooperation with key non-EU partners. This, in turn, may discourage investment from European

and international operators alike. In particular, the weight of the obligations imposed on both states and operators could adversely affect the sector's competitiveness and its attractiveness to technological innovation.

10.4 The third critical aspect (legal form) also carries significant implications. The choice of a regulation entails the adoption of a comprehensive and therefore highly detailed legislative instrument, which limits the degree of adaptability and flexibility in a rapidly evolving sector shaped by geopolitical developments and technological innovation. Furthermore, as a regulation is directly applicable and complete in its provisions, any potential conflict with national space legislation would be resolved according to the principle of primacy of EU law. Yet, this would undermine the principle, established under Article 189(2) TFEU, that the Union is precluded from harmonising national space legislation.

10.5 In considering the current proposal, it would be appropriate to recall two previous experiences in similarly sensitive domains.

- The NIS2 Directive (2022/72055), which entered into force in January 2023, replaced the 2016 directive. NIS2 establishes new minimum standards for a regulatory framework governing cybersecurity risk management and sets out mechanisms for effective cooperation between the competent authorities of each member state, such as reporting obligations across all sectors covered by the directive – particularly energy, transport, health and digital infrastructure. The new rules ensure a high common level of cybersecurity across the Union in response to an evolving threat landscape, taking into account the digital transformation accelerated by the Covid-19 pandemic.
- The CER Directive (2022/2557), which entered into force in October 2024, concerns the resilience of critical entities with the objective of reducing their vulnerabilities and strengthening their resilience. Critical entities are those providing essential services in sectors,[6] such as transport, energy and health, that are vital to maintaining the fundamental functions of society, economic activity, public health and safety, and environmental protection.

10.6 The political and strategic considerations that led, in recent years, to preferring the instrument of the Directive in the cases of NIS2 and CER could, *a fortiori*, argue for the pursuit of the same path for the Space Act.

A directive would, indeed, allow:

- To manage more smoothly a highly complex institutional framework, both at the European level (where actors differ in terms of their legal nature, competences, membership criteria and operating modalities) and at the national level (where engagement in space activities, policy management and industrial and technological capacities vary widely);
- The necessary flexibility to reconcile the more advanced legal frameworks of some member states with the absence of such frameworks in others, and to facilitate national transposition;
- The application of an evolutionary logic that could more easily adapt to changes in a context marked by high and widespread unpredictability;
- The automatic reduction of the current proposal's organisational, administrative, operational and financial burden, thereby avoiding negative impacts on the space sector;
- The resolution of doubts and reservations concerning the current initiative's legal basis;
- A more constructive dialogue between member states and among EU institutions themselves, sending a positive signal at a particularly delicate moment for the European Union.

updated 30 September 2025

6 Energy, transport, banking, financial market infrastructure, health, drinking water, waste water, digital infrastructure, public administration, space, production, processing and distribution of food.

Acronyms

ARRA	Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space
CER	Critical Entities Resilience
COPUOS	United Nations Committee on the Peaceful Uses of Outer Space
CSIRT	Computer Security Incident Response Team
DG DEFIS	Directorate-General for Defence Industry and Space
ECSS	European Cooperation for Space Standardization
EF	Environmental Footprint
EFD	Environmental Footprint Declaration
ESA	European Space Agency
EUSPA	EU Agency for the Space Programme
EUSRN	EU Space Resilience Network
EUSSD	EU Space Strategy for Security and Defence
ISO	International Organization for Standardization
LCA	Life-cycle assessment
LIAB	Convention on International Liability for Damage Caused by Space Objects
MFF	Multiannual Financial Framework
NATO	North Atlantic Treaty Organization
NIS	Network and Information Security
OST	Outer Space Treaty
QTB	Qualified Technical Body
R&D	Research and development
REG	Registration Convention
SME	Small and medium-sized enterprise
SSA	Space Situational Awareness
TFEU	Treaty on the Functioning of the European Union
URSO	Union Register of Space Objects

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Via dei Montecatini, 17
I-00186 Rome, Italy
T +39 06 6976831
www.iai.it

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