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LEGAL FRAMEWORK OF THE EUROPEAN SPACE POLICY

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Abstract

The authors analyze the peculiarities of the legal framework's formation of the European space policy in the primary and secondary law of the EU. It is established that since the signing of the Treaties of Rome and up to the entry into force of the Lisbon Treaty, none of the founding treaties granted the EU powers in the space sector. The authors identify the main space innovations introduced by the Lisbon Treaty, namely, that a clear legal basis for EU decision-making in this field is provided at the level of primary law. The authors establish that the founding treaties, while referring European space policy to the joint competence of the EU, contain reservations in this area of activity, which is reflected in Articles 4 and 189 of the TFEU. Thus, the EU's exercise of joint competence should be subject to certain reservations, which are, firstly, that the EU should take measures in the space sector in such a way that the exercise of such competence does not prevent Member States from exercising their own competence; secondly, that the EU should take limited measures to harmonize national space legislation of Member States. The authors analyze the legal framework for cooperation between the EU and the European Space Agency in the implementation of the European space policy. The authors establish that the peculiarity of the legal mechanism for the implementation of the European space policy is a combination of the international legal level of its legal regulation, which is represented by the founding treaties of the EU and ESA and it is developed based on their interaction, namely, the Framework Agreement on Cooperation between them of 2004 and decisions of the joint specialized bodies of the EU and ESA (Space Council, Joint Secretariat, High Level Space Policy Group), with elements of the supranational level of legal regulation represented by the system of EU institutions and its legal acts. The analysis of EU secondary legislation in the field of European space policy made it clear that the legal regulation of European space policy is carried out by both recommendatory and

mandatory EU acts, mainly in the form of regulations. In most cases, the regulations adopted by the EU institutions relate to the implementation of specific European space programs. These programs serve as the main legal form for the implementation of European space policy. As for directives, they are used to a limited extent, since their functional purpose is to harmonize the legislative and regulatory provisions of the Member States, which is not provided for in the space sector.

Keywords: international law, European Union law, space policy, space law, international treaty, human rights.

Introduction

It is well known that the starting point of the European Communities' history was 1951, when six member states – France, Italy, Belgium, the Netherlands, Luxembourg and Germany – formed the European Coal and Steel Community. The next stage of European integration, which culminated in the signing of the Treaties of Rome establishing the European Economic Community (EEC) and the European Atomic Energy Community in 1957, coincided with the launch of the first artificial Earth satellite on 4 October 1957. This date is considered in the scientific literature to be the beginning of space exploration.

However, the joint exploration and use of outer space did not immediately find its proper place in EU policy. At the time of the EEC's creation, space activities were interpreted and carried out by the Member States separately from the European integration process. One of the good reasons for separating this area from the establishment of a common market for EU member states was sovereignty considerations (Hobe et al, 2010).

For quite a long period of time, the cooperation of EU Member States in this area was initiated and carried out not within the framework of the European Union, but within the framework of other regional international intergovernmental organisations, in particular, the European Space Agency (hereinafter – ESA). It is this feature that influenced the definition of the term European space policy, which should be understood as a special legal form of cooperation between the European Union, the European Space Agency and their Member States aimed at achieving scientific and technological progress, strengthening industrial competitiveness and implementing various EU policies (Utko-Maslianyk, 2018).

Analysing the legal framework of the European space policy, we should, first of all, start with the specifics of the EU primary law in this area (Lysyk et al., 2023). It is worth noting here that since the signing of the Treaties of Rome and until the entry into force of the Lisbon Treaty, none of the founding treaties granted the EU powers in the space sector (Utko-Maslianyk, 2012). However, this does not mean that before the formal approval of the EU's competence in the space sector, the European Community was not involved in the development of European space policy. This process took place and was accompanied by the adoption of EU acts of a recommendatory nature, such as resolutions of the European Parliament and the Council of the EU, communications, working papers, Green and White Papers of the European Commission. In the doctrine, such acts are called *sui generis* acts (Craig, de Burca, 2020), as they do not belong to the system of EU legal acts defined in Article 288 TFEU and are adopted by the EU institutions in a form not provided for in the founding treaty. Such acts are not legally binding and establish only political obligations, the non-compliance with which leads to political liability only. Although these acts are mainly programmatic, they define the common position of the EU member states on the formation of the concept of European space policy, which is why they still remain the most conceptually meaningful EU documents on the formation of the theoretical basis of European space policy.

The purpose of the study is to highlight the peculiarities of forming the legal basis for the European space policy in the primary and secondary law of the EU. In this article, authors consider the European Space Policy as a special legal form of cooperation between the European Union, the European Space Agency and their member states aimed at achieving scientific and technological progress, strengthening industrial competitiveness and implementing various EU policies.

The object of this study is relations in the field of European space policy.

The tasks of this study are:

- to research the space novels of the Lisbon Treaty;
- to analyze the legal basis for cooperation between the EU and the European Space Agency in the development and implementation of European space policy;
- to identify the legal forms of the European space policy implementation.

Literature Review

Scientific studies of European space policy were conducted by a number of scientists.

General doctrinal approaches to the relationship between international law and EU law were formulated by Lysyk et al., but they did not consider the peculiarities of European space policy (Lysyk et al, 2023). Important in this research was using the principle of the rule of law in international and EU Law that was investigated by Buromenskiy et al (2024).

Mazurelle, Wouters, Thiebaut studied the genesis of the European space governance (Mazurelle et al, 2009). Fischer investigated the development of the European Space Policy after the Lisbon Treaty (Fischer, 2012). Aranzamendi researched economic and policy aspects of EU space regulations (Aranzamendi, 2009). Al-Ekabi analysed the EU autonomy in Space (Al-Ekabi, 2015).

So, in the mentioned studies, certain aspects of the European space policy were outlined. This article provides a comprehensive study of peculiarities of forming the legal basis for the European space policy in the primary and secondary law of the EU.

Methodology

In the study general methods of science and specific methods of legal research were used.

In this article, dialectical, comparative legal, formal-logical methods, analysis and synthesis are applied. The dialectical method makes it possible to highlight the place of the space policy in the EU legal order. The comparative legal method is used for comparing the historical, current, and future legal regulation of the EU space policy. The content of the legal basis for cooperation between the EU and the European Space Agency in the development and implementation of European space policy was analyzed using the formal-logical method. The analysis and synthesis method allowed to analyze the content of separate norms of EU law concerning European space policy and to identify the legal forms of the European space policy implementation.

Space Novels of the Lisbon Treaty

The signing of the Lisbon Treaty in 2007 and its entry into force on 1 December 2009 was a landmark event for the entire European community, marking the EU's entry into a qualitatively new level of development. This event is also significant for the history of European space activities, as the treaty created a legal framework for activities in the space sector.

One of the main 'space novels' of the Lisbon Treaty (Treaty on the Functioning of the European Union (TFEU)) was the introduction of the European Space Policy as a new EU integration direction. In particular, Article 4 of the TFEU for the first time in 60 years of the EU's activity defines the EU's competence in this area, and Article 189 of the TFEU for the first time regulates the provisions of the European space policy at the level of the EU's founding treaty (EUR-Lex, 2016b).

The Lisbon Treaty defines four categories of competence in various policy areas between the Member States and the EU, namely exclusive, joint and complementary and special. The space sector is mentioned in Article 4(3) of the TFEU which defines the areas of joint competence of the EU. In contrast to the joint competence of the EU in the areas of complementary competence, according to Article 2 of the TFEU, the European Union can only carry out activities aimed at supporting, coordinating and complementing the activities of the Member States.

Another reference to this area is contained in Title XIX 'Scientific research, technological development and space', in particular Article 189 TFEU. According to paragraph 1 of this article, the EU should develop a European space policy. This provision indicates, first of all, the formation of a new area of EU policy. Secondly, it assigns a key role in its development to the EU. In addition, this article implies that the EU is not only empowered to develop a European space policy, but also has the competence to encourage joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space. However, attention should be drawn to the provision excluding harmonisation of legislative and regulatory provisions of the EU Member States in this area, envisaged in Article 189(2) TFEU.

Thus, this gives grounds to argue that there is a difference between the EU's common competence in the areas defined in Article 4(2) TFEU and its common competence in the field of scientific research, technological development and space. In the first case, Member States exercise their competence when the EU does not use its. Member states exercise their competence again when the EU decides to stop exercising its competence and, conversely, in the second case, the exercise of EU competence should not

prevent member states from exercising their competence. It is on this basis that some Western scholars refer to the competence of the EU (Aranzamendi, 2009; Mazurelle et al., 2009).

In this context, we rather agree with the opinion of the Western scientist Fisher, '...it is unclear why the space sphere was not immediately included in the list of areas of complementary competence of the EU, as defined in Article 6 of the Lisbon Treaty' (Fischer, 2012).

It is important to note that the provisions of the Lisbon Treaty, in particular, Article 4(1), which clearly states that the sphere of common competence includes everything that does not fall within the areas of exclusive competence or support, coordination or complementary measures. Thus, this gives grounds to assert that the space sphere, not being listed among the areas of exclusive competence or among the areas of complementary competence, still belongs to the common competence, but with certain reservations, which are, firstly, the implementation by the EU of measures in the space sphere in such a way that the exercise of such competence does not prevent the Member States from exercising their own competence, and secondly, the limited use of measures for the EU to harmonise national space legislation of the Member States.

Another provision of the Lisbon Treaty that is relevant to the implementation of this policy is that, according to Article 189(1) TFEU, the main objectives of this policy are to promote scientific and technological progress, industrial competitiveness and the implementation of various EU policies. This means that the development of a European space policy is not a goal in itself, but a tool to support other policies and the overall objectives of the EU to achieve economic competitiveness. That is why we support the opinion of Western scholars that the regulation of relations in this area can also be influenced through other EU policies (Aranzamendi, 2010). But on the other hand, this approach may lead to a confusing and decentralised legal regime in the space sector (Al-Ekabi, 2015).

In order to recognise the identity of these terms today, it is necessary that the Lisbon Treaty define the formula of the EU's relations with ESA in a similar way, for example, as the EU's relations with the Western European Union (WEU) in the field of security and defence policy were defined in the past. Namely, if the wording of the development of the EU's relations with ESA were enshrined in law, in such a way that the Union would establish closer relations with ESA, provided that the European Council adopts a decision on ESA's integration into the EU.

Legal Basis for Cooperation between the EU and the European Space Agency in the Development and Implementation of European Space Policy

Today, the EU's relations with the European Space Agency in the field of developing and implementing European space policy are regulated by an international treaty, namely the 2004 Framework Agreement on Cooperation between the EU and ESA (EUR-Lex, 2004b). This treaty is an important source of European space policy, which regulates the areas of responsibility between the EU, ESA and their member states, and defines the forms of their cooperation, which in turn allows for the coordination of a common position on the implementation of this policy. Analysing the specifics of the development and implementation of the European space policy defined by this treaty, the following points should be noted. Firstly, this policy, according to the agreement, should be aimed at implementing the EU's general political objectives, supporting Community policies through the use of space technologies and space infrastructure and promoting the use of space systems for sustainable development, economic growth and employment, as well as forming a common basis for effective mutually beneficial cooperation between the EU and ESA. Secondly, each party may make decisions necessary to implement the objectives of cooperation set out in the agreement, as well as provide expert assistance and support to the other party in resolving issues within its competence. Thus, the article preserves the institutional and functional boundaries of international organisations. Thirdly, 'all external aspects of space activities, from the date of entry into force of this agreement, shall be carried out on a joint basis'. This means that from the moment the agreement enters into force, neither the EU nor ESA can enter into international relations with a third party in the relevant field without notifying the other party and obtaining its approval. Fourthly, the establishment of special joint bodies aimed at coordinating the development of a coherent European space policy and adopting recommendations for the implementation of certain goals and areas of cooperation.

The activities of the special bodies resulted in the adoption of a number of important documents in the form of resolutions on the formation of European space policy. The first meeting of the Space Council held on 25 November 2004, adopted a resolution on the importance and benefits of space exploration and use for a number of European policies. Determining the priorities of the European space programme

for the development of Europe's autonomous system of global Earth monitoring was discussed at the third meeting of the Space Council on 28 November 2005. The first common position of 30 European states on the development of this policy was presented at the fourth meeting of the Space Council, which adopted the resolution 'On European Space Policy' on 22 May 2007 (Council of European Union, 2007).

Legal forms of the European space policy implementation

European space programmes are the main legal forms of implementation of this policy. Such a conclusion can also be made on the basis of Article 189 of the TFEU, which gives the EU institutions in the space sector the authority to 'establish the necessary measures to promote the objectives of the European space policy as set out in paragraph 1 of Article 189'. According to this provision, the EU may take any measures in the space sector that it deems necessary to promote scientific and technological progress, industrial competitiveness and the implementation of EU policies. In particular, such measures, according to the TFEU, may take the form of a European space programme. Further, paragraph 2 of the same article states that 'the European Parliament and the Council shall, acting in accordance with the normal legislative procedure, establish the necessary measures which may take the form of a European space programme...'. Thus, the EU institutions have the right to adopt legislation in the space sector, but the functional purpose of such legislation, in accordance with Article 189(2) TFEU, which regulates the provisions on European space policy, should exclude any harmonisation of the legislative and regulatory provisions of the Member States in the space sector (EUR-Lex (2016b)). This implies that legislative acts in the space sector will be adopted mainly in the form of regulations and decisions, since the main purpose of the Directive is to harmonise the national legislation of the Member States.

It is important to note that this policy has been implemented by the European Union from the very beginning at the level of specific European space programmes, in particular, by the Regulation of the European Parliament and of the Council adopted on the basis of Article 189, subparagraph 2 TFEU, which introduces the European space programme 'European Global Earth Observation System' (EUR-Lex, 2010c). The programme covers the creation of satellite systems and related ground infrastructure in Europe designed to observe the Earth's surface and provide geoinformation services that give access to accurate information in the areas of environment and security, and focuses on global change, environmental degradation, natural and man-made disasters. Another programme is for the creation of the European global satellite navigation system Galileo, which is provided for by Council Regulation (EU) No. 1285/2013 on the implementation and use of European satellite navigation systems of 11 December 2013 (EUR-Lex, 2013b). In particular, it is envisaged that the European space programme to create a global navigation satellite system (GNSS) will be implemented in two stages: GNSS-1 and GNSS-2. The first stage envisages the creation of the European Geostationary Navigation Augmentation System (EGNOS). The European Commission, the European Space Agency and the European Organisation for the Safety of Air Navigation (Eurocontrol) have joined forces to accomplish this task. The second phase of the programme (GNSS-2) includes the creation of a new independent and autonomous satellite system called Galileo. This is an infrastructure consisting of 30 satellites and a network of ground stations related to their operation. The Galileo system is designed to provide five key groups of services, namely: basic positioning of moving objects; safety services for the maritime, aviation and railway transport; commercial services; navigation information for public sector users (government agencies, police, civil navigation, emergency services); and search and rescue services.

Given that the main legal form of implementation of the European space policy is the European space programme, it is important to define in the framework agreement on cooperation between the EU and the European Space Agency, namely in Article 5 of this agreement, the mutual obligations of the EU and ESA, which can also be used as forms of cooperation in the case of their participation in the joint European space programme. They are: 1) the management by the ESA of European Community space-related activities in accordance with the rules of the European Community. Within the framework of this obligation, ESA may act as the EU's executive agency for the implementation of the European space programme, i.e. provide support on scientific and technical issues; 2) the EU may participate in ESA activities, in particular, in its optional space programmes, in accordance with Article V.I.b of the ESA Convention (EUR-Lex, 2004b). This article is the main legal basis for ESA's participation in the implementation of the EU's European space programmes. As we can see, it provides for the possibility of entrusting ESA with the functions of the EU executive agency in the implementation of the European space programmes of the European Union. In fact, this form of cooperation has been successfully used in two European space programmes. Article 15 of Council Regulation (EU) No. 1285 of 11 December 2013 on the implementation and use of the European Global

Navigation Satellite System defines the tasks and role of ESA in the development of this system, in particular, in the deployment of the Galileo system and the technical upgrade of the Egnos system (EUR-Lex, 2013b). A sign that confirms the legal status of ESA as an executive agency of the EU within the framework of this programme is that the distribution of contracts for production works related to the creation of the European Global Satellite Navigation System of ESA should be carried out in accordance with the EU procurement rules, excluding the application of the rules for the distribution of contracts provided for in the Convention establishing ESA. Today, the performance by the European Space Agency of the functions of the EU executive agency in the implementation of the European space programmes of the European Union is confirmed not at the level of individual EU space programmes, but at the level of the general European space programme adopted in the form of Regulation 2021/696 by the European Parliament and the Council, adopted on the basis of Article 189(2) TFEU, which introduces the European Space Programme of the EU for the period 2021-2027, namely in Articles 29 and 30 of this Regulation (EUR-Lex, 2021).

Thus, ESA, as an international intergovernmental organisation, in addition to other functions provided for by the Convention establishing the Agency (conducting scientific and applied research, practical activities for the exploration and use of outer space, cooperation with other states and international organisations in the development and implementation of specific space programmes), also performs the functions of the EU executive body for the development and implementation of the EU's space programmes, in accordance with EU law (European Space Agency, 1975).

When analysing the legal framework of the European space policy, it is important to note that it is closely linked to the element of international cooperation. Thus, the aforementioned regulations on the implementation of the EU's European space programmes clearly provide for the legal basis for concluding international agreements with third countries. As of today, the EU has used this right repeatedly. Examples include the Agreement between the EU, its Member States and the United States of America on the Promotion, Provision and Use of the Galileo, GPS and Related Applications (EUR-Lex, 2011); the Agreement between the EU and the Kingdom of Norway on Cooperation in the Field of Satellite Navigation (EUR-Lex, 2010a); Agreement between the EU and its Member States and the Republic of Korea on cooperation in the field of civil global navigation satellite system (EUR-Lex, 2006); The Agreement between the EU, its Member States and the Swiss Confederation on Cooperation in the Civil Global Navigation Satellite Programme (EUR-Lex, 2013a).

Ukraine also cooperates with the EU in the framework of the European space programme to build the European Galileo global navigation satellite system. The basis for cooperation is laid down in the Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and Ukraine of 7 June 2005. Ukraine officially joined the European Galileo system by ratifying the agreement by the Verkhovna Rada of Ukraine on 10 January 2007, which entered into force on 1 December 2013 (EUR-Lex, 2014b). Before the EU adopted the basic regulation defining the rules for the implementation of the EU European Space Programme for the period 2021-2027, the parties to such international agreements were guided by the relevant provisions of EU regulations on the implementation of individual EU space programmes, namely Article 4 of Council Regulation (EC) No 683/2008 of 9 July 2008 on the implementation of the European Space Navigation Satellite Programme Galileo and Article 23 of Council Regulation (EC) No 912/2010 of 22 September 2010 on the establishment of the European Agency for Global Navigation Satellite Services (EUR-Lex, 2008). Today, the legal basis for entering into such international agreements is provided by Regulation 2021/696 of the European Parliament and of the Council establishing the European Space Programme for the period 2021-2027, which also provides for the establishment of the European Space Agency, which is currently responsible for concluding such international agreements.

It is worth noting that today the adoption of the above-mentioned regulation is a huge step forward in the formation and implementation of the European space policy, as it provides an understanding of the essence of this policy and defines the general framework for its implementation for the period 2021-2027.

It should be noted that the implementation of the three aforementioned components of the European space programme 2021-2027 Galileo, EGNOS and Copernicus has been effectively implemented for some time. Thus, the main tasks of the programme for the creation of the European global satellite navigation system Galileo are regulated in a number of documents approved by the EU institutions in the form of both advisory and legally binding legal acts, for example, the EU Council Resolution on Europe's participation in the creation of a new generation of navigation satellite service – Galileo of 19 July 1999 (EUR-Lex, 1999). Council Resolution on the Galileo project of 5 April 2001 (Council Resolution on Galileo, 2001); Information

from the Commission to the European Parliament and the Council "Communication on the status of the Galileo programme" of 2002 (EUR-Lex, 2002); and 18 February 2004 (EUR-Lex, 2004a), Regulation (EC) of 9 July 2008 on the implementation of the European Galileo satellite navigation programme (EUR-Lex, 2008), Regulation (EU) of 22 September 2010 establishing the European Agency for the Global Navigation Satellite System (EUR-Lex, 2010b), Council Regulation (EU) on the implementation and use of European satellite navigation systems of 11 December 2013, Regulation (EU) of the European Parliament and of the Council establishing the European Space Programme Copernicus (EUR-Lex, 2014c), etc.

Today, the European Space Strategy, adopted on 10 March 2023, undoubtedly emphasises the importance of using outer space for security and defence purposes (European Parliament, 2023). The Strategy emphasises the need to develop and improve the services provided by these EU space programmes to increase the strategic autonomy of the European Union and its Member States. This is confirmed by the adoption in 2022 by the European Union of a number of directives on critical infrastructure resilience, strengthening cybersecurity requirements (EUR-Lex, 2022), Regulation of the European Parliament and of the Council of 15 March 2023 establishing the Union Secure Connectivity Programme for the period 2023-2027 (European Parliament, 2023), according to which the space sector is classified as a critical sector for the provision of a number of important services, especially for security purposes.

Analysing the current challenges of regulating the European space policy, attention should be paid to the need to develop a harmonised legal framework for the activities of non-governmental legal entities engaged in space activities within the EU (Von der Dunk, 2008), since they will provide services under space programmes. The growing role of the private sector in the development of European space policy was noted in the European Commission's Communication of 26 October 2016 on the European Space Strategy (EUR-Lex, 2016a). In view of this, it is important to take measures within the EU to harmonise national space legislation, especially in terms of licensing and control over the activities of non-governmental legal entities engaged in space activities.

However, there are two main "obstacles" to the implementation of these measures within the EU: first, the EU has not adopted or declared its intention to adopt the rights and obligations arising from the main international treaties on space activities adopted under the auspices of the UN; second, the EU, according to Article 189(3) TFEU, does not have the authority to harmonise national space legislation. This provision does not give the EU the right to introduce uniform rules for the activities of the relevant entities for its member states.

The special status of the EU's common competence in the space sector, enshrined in Article 189 TFEU, leads to a paradoxical situation: on the one hand, the EU's authority to develop European space policy indicates the need to develop common legal frameworks for its implementation; on the other hand, the exclusion of any harmonisation of Member States' laws in the space sector indicates that the EU Member States retain control in this area. Thus, scholar P. Hanappel is right in stating that the provisions of the legal act on the implementation of the EU's European space programme, in particular, in terms of granting licensing functions to the European Agency for the Global Navigation Satellite System, cannot be implemented until the EU has real powers to harmonise the national legislation of the Member States in this area (Haanappel, 2006).

At the same time, Article 189(4) of the TFEU, which regulates European space policy, states that this article does not contradict other provisions of this section. This may mean that the EU may use other methods to implement measures to harmonise national space legislation.

In particular, according to Article 26 TFEU, the EU may harmonise national legislation to achieve the objectives of establishing and operating an internal market. According to Art. 26 TFEU, the internal market is a territory without internal borders, on which the free movement of persons, capital, goods and services is based.

Given the strategic importance of the space sector, in particular its contribution to economic growth, it can be considered as one of the components of economic activity in the provision of space services and technologies (Von der Dunk, 2009). This means that the EU, in order to achieve the objectives of establishing and operating the internal market set out in Article 26 TFEU, may take measures to approximate the legislative, regulatory and administrative acts of its Member States. Such measures include the legislative initiative of the European Commission in the form of the 2014 Directive on the dissemination of satellite ground observation data for commercial purposes, the legal basis for which was Article 114 TFEU (EUR-Lex, 2014a). The Directive is aimed at ensuring the proper functioning and development of the internal market for high-resolution satellite data, derivative products and services by introducing harmonised rules,

verification and licensing procedures. In particular, the preamble states that "the functioning of the internal market for high-resolution satellite data, derivative products and services will contribute to the development of the EU's competitiveness in the space sector, increase the development opportunities for Union enterprises, and provide innovative systems for ground-based Earth observation". Previous attempts have been made to liberalise the EU's internal market, of which the telecommunications market is a separate sector (Haanappel, 2006) Satellite communications is only a separate segment of this market.

Conclusions

Firstly, the peculiarity of the legal mechanism for the implementation of the European space policy is a combination of the international legal level of its legal regulation, represented by the founding treaties of both the EU and ESA, which is developing on the basis of cooperation, namely the 2004 Framework Agreement on Cooperation between them and decisions of joint specialised bodies between the EU and ESA (Space Council, Joint Secretariat, High Level Group on Space Policy), with elements of the supranational level of legal regulation represented by the system of EU institutions and their respective legal acts regulating integration in this area.

Secondly, the entry into force of the Lisbon Treaty was a milestone in the development of European space policy. For the first time, the European space policy was enshrined in the provisions of primary law and classified as a common competence of the EU, which should be implemented with certain reservations, which are, firstly, that the EU should take measures in the space sector in such a way that the implementation of such competence does not prevent the Member States from exercising their own competence; secondly, limited use by the EU of measures to harmonize national space legislation of its member states.

Thirdly, the analysis of secondary EU legislation showed that the legal regulation of European space policy is carried out by both recommendatory and mandatory EU acts, mainly in the form of regulations. In most cases, the regulations adopted by the EU institutions relate to the implementation of specific European space programmes. These programmes serve as the main legal form of implementation of the European space policy. As for directives, they are used to a limited extent, since their functional purpose is to harmonise the legislative and regulatory provisions of the Member States, which is not provided for in the space sector, according to Article 189(2) TFEU. Thus, the EU's powers to harmonise national space legislation are currently limited, which may have a negative impact on the effectiveness of the implementation of the European space policy in general. On the other hand, it is possible to expand these powers, in particular, through the use of alternative methods such as the internal market.

Fourthly, the changes introduced by the Lisbon Treaty still secure the leading role in the decision-making process in the field of European space policy for the EU institutions. The powers delegated to the EU supranational institutions have made it possible to start adopting a comprehensive document in the form of a regulation that reflects a collective vision of the future development of European space policy and defines its main components for the period 2021-2027.

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