

Regulation of the Federal Minister for Transport, Innovation and Technology in Implementation of the Federal Law on the Authorisation of Space Activities and the Establishment of a National Space Registry (Outer Space Regulation) BGBl. II No. 36/2015

On the basis of § 12 of the Federal Law on the Authorisation of Space Activities and the Establishment of a National Registry (Outer Space Act), BGBl. I No. 132/2011, it is regulated:

Scope of Application

§ 1. By this regulation the implementations necessary according to § 12 of the Outer Space Act are carried out.

Request for Authorisation

§ 2. (1) As evidence of the necessary reliability, capability and expertise to carry out the space activity (§ 4, subparagraph 1, letter 1 of the Outer Space Act) the operator has to submit:

1. a certificate about a security review undertaken in accordance with the Federal Security Police Act, BGBl. No. 566/1991, as amended, or of a reliability review in accordance with the Federal Military Authority Act, BGBl. I No. 86/2000, as amended, of the operator, or, in case of a juridical person, of the representative responsible for the space activity,
2. evidences of qualification of the operator as well as of the persons cooperating in the space activity,
3. a list of activities previously carried out by the operator in the field of space technology or related fields,
4. evidence of the financial capacity of the operator as well as a costs projection and financing plan of the space activity,
5. all contracts in relation to the space activity, in particular the launch contract and supply contracts,
6. a concept demonstrating the planned task, purpose and objective of the space activity,
7. evidence that presents the technical details of the space activity, in particular the envisaged frequency spectrum and orbital position, the energy supply, the description of the intended payload, the communication strategy, the technical details of the ground station, technologies used at subsystem level and
8. documentation about the duration and termination of the space activity.

(2) As evidence that the space activity does not pose an immediate threat to public order, the safety of persons and property and to public health (§ 4, subparagraph 1, letter 2 of the Outer Space Act), the operator has to submit:

1. evidence of compliance with state of knowledge based on the relevant scientific knowledge of advanced techniques, facilities, construction and operation methods, whose functional operability

has been tested and proven. If compliance is not an option in the case at hand or if evidence of it is not possible, it must be credibly demonstrated that the space activity nevertheless does not pose an immediate threat to public order, the safety of persons and property and to public health,

2. the results of the tests carried out to verify the safety and solidity of the space object according to the state of the art,

3. the emergency plans developed for the event of a failure of the communication or data connections, the loss of control over the space object, the failure of essential systems for power supply, attitude control or control of the trajectory and similar exceptional operating events and

4. information to what extent the space activity involves the observation of the Earth and what kind of data is thereby collected. In particular, the degree of resolution of possible images of the surface of the Earth as well as the planned transfer of raw or processed data must be indicated. In case the space activity involves the processing of data within the meaning of the Data Protection Act 2000 (BGBl. I No. 165/1999, as amended), the necessary licenses for the processing and transfer of these data must be provided.

(3) As evidence that the space activity does not run counter to national security, Austria's obligations under international law or Austrian foreign policy interests (§ 4, subparagraph 1, letter 3 of the Outer Space Act), the documents provided in accordance with subparagraph 1 are reviewed, in addition the operator has to submit in particular:

1. documents providing information on the planned use and the recipients of the data collected in accordance with subparagraph 2, letter 4,

2. information on the payload of the space object.

(4) As evidence of appropriate provisions for the mitigation of space debris in accordance with § 5 of the Outer Space Act (§ 4, subparagraph 1, letter 4 of the Outer Space Act), the operator has to submit:

1. a report [on the measures adopted] according to the state of the art and in consideration of the internationally accepted guidelines, in particular

a) for the avoidance of space debris and mission residue released during normal operations,

b) for the prevention of on-orbit break-ups of the space object,

c) for the removal of the space object from Earth orbit at the end of the space activity, either by controlled re-entry or by moving the space object to a sufficiently high Earth orbit ("graveyard orbit"), while for non-maneuvrable space objects the Earth orbit is to be chosen such that they do not remain in Earth orbit for more than 25 years after the end of their operation,

2. a demonstration of measures adopted for the prevention of on-orbit collisions with other space objects.

(5) As evidence that the space object does not contain dangerous substances or substances harmful to health, which could cause harmful contamination of outer space or adverse changes in the

environment (§ 4, subparagraph 1, letter 5 of the Outer Space Act), appropriate documents must be submitted by the operator.

(6) As evidence that the frequencies and orbital positions necessary for the radio operation of the space object may be used lawfully, the operator must submit the appropriate licenses or the documents required for the frequency coordination with the International Telecommunication Union (ITU) (§ 4, subparagraph 1, letter 6 of the Outer Space Act).

(7) As evidence of having taken out insurance according to § 4, subparagraph 4 of the Outer Space Act, the operator must submit appropriate documents, unless he applies for exemption from the insurance requirement or a reduction of the insurance sum according to § 3 or the Federal State itself is the operator of the space activity.

Application for exemption from the insurance requirement or reduction of the insurance sum

§ 3. The operator may apply for exemption from the insurance requirement or a reduction of the insurance sum according to § 4, subparagraph 4 of the Outer Space Act. For that purpose he must provide documents demonstrating

1. to what extent the space activity serves science, research or education,
2. the risks connected to the activity and
3. the operator's financial capacity to cover liability for damages caused to persons or property.

Procedure

§ 4. (1) To the procedure, unless otherwise provided by the present Regulation or by the Outer Space Act, the provisions of the General Administrative Procedures Act 1991, BGBl. No. 51/1991, as amended, apply.

(2) The operator has to submit all the documents required for the request for authorisation according to this Regulation to the competent authority. These documents should, as far as possible, be provided in electronic form.

(3) The operator has to specifically identify documents, which, in his view, contain trade or business secrets. The protection of trade and business secrets is to be taken into account.

(4) If documents required under subparagraph 2 are missing in the request for authorisation or if the information provided in the request for authorisation is not complete, even when this turns out in the course of the procedure, the authority has to assign the operator to complete the request for authorisation.

(5) The request for authorisation is to be dismissed at any stage of the procedure, if in the course of the procedure it turns out in an undoubted manner that the project is in conflict to specific conditions for authorisation to an extent that the deficiency cannot be remedied by conditions or requirements.

(6) If the submission of documents according to § 2, subparagraph 1, letter 5 and § 2, subparagraph 2, letter 2 is not possible at the time of submitting the request for authorisation, the operator must inform about and justify this fact in the request. The launch service provider envisaged according to § 2, subparagraph 1, letter 5 must be stated at the time of the decision regarding the request for authorisation at the latest. The submission of missing documents according to § 2, subparagraph 1, letter 5 and § 2, subparagraph 2, letter 2 is to be requested from the operator by means of conditions and requirements.

Review of the conditions for authorisation

§ 5. (1) The review of the conditions for authorisation according to § 2 and of the exemption from the insurance requirement or the reduction of the insurance sum according to § 3 is incumbent on the Federal Minister for Transport, Innovation and Technology.

(2) If the nature, the extent or the complexity of the request so requires, the Federal Minister for Transport, Innovation and Technology may appoint additional certified experts. There is no entitlement to the appointment as certified expert.

(3) With regard to the review under subparagraph 1 the Federal Minister for Transport, Innovation and Technology may request an opinion from the Austrian Research Promotion Agency (FFG) and/or the European Space Agency (ESA).

(4) The continuing supervision and control of the space activity according to § 7 and § 13, subparagraph 1 of the Outer Space Act is to be exercised by the Federal Minister for Transport, Innovation and Technology.

Registration

§ 6. (1) The operator must provide the information according to § 10 of the Outer Space Act as well as the information listed in subparagraphs 2 and 3 immediately after the launch, and at the latest within two weeks, in the German and in the English language.

(2) In addition to the information according to § 10 of the Outer Space Act, the operator must provide the following information for the registration of the space object:

1. the Committee on Space Research (COSPAR) international designator, where appropriate,
2. the date and the Coordinated Universal Time (UTC) as the time of the launch,
3. the expected date and Coordinated Universal Time (UTC) of the re-entry of the space object,
4. the date and the Coordinated Universal Time (UTC) of moving the space object to a disposal orbit,
5. the web link to the official information on the space object,
6. the spacecraft which is or was used to launch the space object, and
7. the celestial body the space object is orbiting.

(3) In case of a change of operator the original operator must provide the following information:

1. the date and the Coordinated Universal Time (UTC) of the change of operator,
 2. the identification of the new operator,
 3. in case of a change of orbital position, the parameters of the original orbital position as well as the parameters of the new orbital position, and
 4. any change of function of the space object.
- (4) The operator shall be issued a certificate attesting the registration.
- (5) Access to the register is open to any person, who can demonstrate a legitimate interest.

Costs of review

§ 7. (1) The costs for the review of the operator's reliability according to § 2, subparagraph 1, letter 1 are borne by the operator. They are determined according to § 5 of the Security Fees Regulation (BGBl. No. 389/1996, as amended).

(2) The costs for the review by qualified experts according to § 5, subparagraph 2 are borne by the operator.

Fees

§ 8. The fees for the authorisation and registration procedures amount to 6 500 euros.

Competent authority

§ 9. The competent authority for the implementation of the authorisation procedure and the maintenance of the registry is the Federal Minister for Transport, Innovation and Technology, notwithstanding the agreements to be reached according to § 17 of the Outer Space Act.

References to persons

§ 10. With respect to references to persons used in this Regulation, the form of reference selected shall apply to both genders.