

Law n° 2008-518 of June 3rd, 2008 relating to Space Operations

The National Assembly and the Senate adopted,
The President promulgates following Law:

TITLE I: DEFINITIONS

Article 1

For the purposes of this law, the following words and expressions shall have the following meanings:

1° “Damage”: any damage to persons, property, and in particular public health or the environment directly caused by a space object in the context of a space operation, excluding the consequences of the use of the signal emitted by that object for users;

2° “Space operator”, hereinafter referred to as “operator”: any natural or legal person who carries out, under its own responsibility and independently, a space operation;

3° “Space operation”: any activity consisting in launching or attempting to launch an object into outer space or in controlling a space object during its travel in outer space, including the Moon and other celestial bodies, as well as, if applicable, upon its return to Earth;

4° “Launch phase”: the period which, in the context of a space operation, starts at the time the launching operations become irreversible, and ends, subject to any provisions set forth in the authorization granted pursuant to this law as applicable, when the launcher and the object intended to be put into outer space separate;

5° “Control phase”: the period which, in the context of a space operation, starts when the launcher and the object intended to be put into outer space separate and ends upon the occurrence of the earliest of the following events:

- when the last de-orbiting operations and passivation activities have been completed;
- when the operator loses control of the space object;
- the return to Earth or the full disintegration of the space object into the atmosphere;

6° “Third party to a space operation”: any natural or legal person other than those taking part in the space operation or in the production of the space objects the launch or control of which is part of this operation. In particular, the space operator, its contracting partners, subcontractors and customers, as well as the contracting partners and subcontractors of its customers, are not considered third parties;

7° “Primary space data operator”: any natural or legal person who ensures the programming of a satellite system for Earth observation or the receiving of Earth observation data from space.

TITLE II: AUTHORIZATION OF SPACE OPERATIONS

CHAPTER I: OPERATIONS SUBJECT TO AUTHORIZATION

Article 2

The following must obtain an authorization from the administrative authority:

1° Any operator, regardless of its nationality, who intends to proceed with the launch of a space object from the national territory, or from means or facilities under French jurisdiction or who intends to proceed with the return of such an object onto the national territory, or onto means or facilities under French jurisdiction;

2° Any French operator who intends to proceed with the launch of a space object from the territory of a foreign State, or from means or facilities under the jurisdiction of a foreign State or from a space not subject to the sovereignty of a State or who intends to proceed with the return of such an object onto the territory of a foreign State, or onto means or facilities under the jurisdiction of a foreign State or onto a space not subject to the sovereignty of a State;

3° Any individual being a French national or legal person having its legal seat in France, be it an operator or not, who intends to have a space object launched or any French operator who intends to control such an object during its travel in outer space.

Article 3

The transfer of control of a space object in respect of which an authorization was granted under this law to a third party is subject to the prior authorization of the administrative authority.

In accordance with the provisions of point 3° of Article 2, any French operator who intends to control a space object, the launch or control of which has not been authorized under this law, must obtain a prior authorization granted for that purpose by the administrative authority.

The modalities of application of this article are set forth by **decree passed at the Council of State**.

CHAPTER II: CONDITIONS TO THE ISSUANCE OF AUTHORIZATIONS

Article 4

The authorizations to launch, control and transfer the control of a space object launched and returned to Earth are issued after verification by the administrative authority of the moral, financial and professional guarantees of the applicant and, as applicable, of its shareholders, and of the compliance of the systems and procedures that it intends to implement with the technical regulations in effect, in particular in the interest of the safety of people and property and the protection of public health and the environment.

The authorizations cannot be issued where the operations for which they are sought, in particular with regard to the systems intended to be implemented, are likely to compromise the interests of national defence or the fulfilment by France of its international commitments.

Licenses certifying, for a given period, that a space operator has sufficient moral, financial and professional guarantees, may be granted by the respective administrative authority in charge of authorizations. These licenses may also certify that the systems and procedures mentioned in the first paragraph comply with the technical regulations in effect. Lastly, they may be considered as authorization for certain operations.

A decree passed at the Council of State determines the modalities of application of this article. It specifies in particular:

1° The information and documents to be submitted in support of the applications for authorization and the issuance procedure for such authorizations;

2° The administrative authority that is competent to issue the authorizations and to set out the technical regulations mentioned in paragraph 1;

3° The conditions under which the licenses mentioned in paragraph 3 can be issued as well as the modalities according to which the holder of a license informs the administrative authority of the space operations to which he proceeds;

4° The conditions under which the administrative authority may exempt the applicant from all or part of the compliance procedure provided for in paragraph 1, when an authorization is requested with a view to an operation to be conducted from the territory of a foreign State or from means and facilities under the jurisdiction of a foreign State and when the national or international commitments, laws and practice of that State include sufficient guarantees in terms of safety of people and property, protection of public health and of the environment, and liability.

CHAPTER III: OBLIGATIONS OF THE AUTHORIZATION HOLDERS

Article 5

The authorizations issued pursuant to this law may include requirements set forth in the interest of the safety of people and property and the protection of public health and of the environment, in particular in order to limit the risks related to space debris.

The purpose of such requirements may also be to protect the interests of national defence or to ensure the fulfilment by France of its international commitments.

Article 6

I. – Any operator subject to authorization under this law must, for as long as it may be held liable under the conditions provided for in Article 13 and up to the amount

mentioned in Articles 16 and 17, be covered by an insurance policy or another financial guarantee approved by the competent authority.

A decree passed at the Council of State specifies the terms and conditions of insurance, the nature of the financial guarantees which may be authorized by the competent authority and the conditions under which the fulfilment of the obligations mentioned in paragraph 1 is proven to the authority having issued the authorization. In addition, it specifies the conditions under which the operator may be exempted by the administrative authority from the obligation set forth in the previous paragraph.

II. – The insurance or financial guarantee must cover the risk of having to indemnify, up to the amount mentioned in point I, the damages likely to be caused to third parties to the space operation.

III. – To the extent of their liability for any damage caused by a space object, the insurance or financial guarantee must cover the following persons:

- 1° The French State and its public entities;
- 2° The European Space Agency and its Member States;
- 3° The operator and the persons who took part in the production of the space object or in the space operation.

Article 7

I. – The following are authorized to proceed with the controls required to confirm compliance with the obligations of this chapter:

1° Agents appointed by the administrative authority mentioned in Article 2, under conditions set by decree passed at the Council of State, and belonging to the State administrations responsible for space, defence, research and the environment or to public entities which carry out their missions in the same fields;

2° Agents authorized to perform technical inspections on board aircrafts;

3° The members of the insurance control body mentioned in Article L. 612-18 of the French Monetary and Financial Code;

4° The agents mentioned in Article L. 1421-1 of the French Public Health Code;

5° Administrators of maritime affairs, officers of the administrative and technical maritime affairs body, civil servants of the A and B grades working in the respective services responsible for the control of maritime affairs under the authority or at the service of the French Ministry of the Sea, State ship masters and State aircraft captains responsible for sea surveillance.

The agents mentioned in 1° to 5° are subject to professional confidentiality in the conditions and under the penalties provided for in Articles 226-13 and 226-14 of the French Criminal Code.

II. – The agents mentioned in I may, at any time, access the establishments, premises and facilities in which the space operations are performed, as well as the

space object. On or before the beginning of the control operations, the operator is notified that it may attend the visit and be assisted by any person of its choice, or be represented. When the premises or part thereof constitute a domicile, visits shall be authorized under the conditions set out in Article 7-1.

III. As part of their control assignment, in addition to the seizures carried out under the procedure set out in Article 7-1, the agents mentioned in I may request communication of all useful materials or documents, irrespective of their medium. They may copy them and collect the necessary information and justifications upon formal notification or on site.

The agents may only take away documents after drafting a list countersigned by the operator. The list indicates the nature of the documents and their quantity.

The operator shall be informed by the administrative authority mentioned in Article 2 of the results of the control. It may send it its comments.

IV. – If the operator or the person entitled to authorize access to the facility cannot be reached or if he/she opposes the access, the agents mentioned in I may be so authorized in accordance with the provisions of Article 7-1.

— Art. 7.1 —

Article 7-1

I. - The visit provided for in Article 7 is authorized by order of the judge of liberties and detention of the court of first instance in whose jurisdiction the places to be visited are located.

The order shall contain the address of the places to be visited, the name and capacity of the official or officials authorized to carry out the visit and seizure operations and the hours at which they are authorized to report.

The order is enforceable by the minute.

II. - The order shall be notified on the spot, at the time of the visit, to the occupier of the premises or to his representative who shall receive a copy of it in full against receipt or payment in the minutes of the visit. In the absence of the occupant or his representative, the order shall be notified, after the visit, by registered letter with acknowledgement of receipt. The notification shall be deemed to have been made on the date of receipt set out in the notice. In the absence of receipt, the order is served by an act of judicial officer.

The act of notification shall contain a reference to the remedies and time limits for bringing an action against the order authorizing the visit and against disputes concerning the conduct of the visit operations. It also mentions that the judge who authorized the visit may be asked to suspend or stop the visit.

III. - The inspection and seizure of documents are carried out under the authority and control of the judge of liberties and detention who authorized them. The Judge of Liberties and Detention may, if he considers it advisable, visit the premises during the

intervention. At any time, he may decide to suspend or stop the visit. A referral to the Judge of Liberties and Detention for the purpose of suspending or stopping the operations of inspection and seizure shall not entail the suspension of those operations.

IV. - The visit cannot begin before 6 am and after 9 pm. It is carried out in the presence of the occupant of the premises or his representative, who may be assisted by the lawyer of his choice. In the absence of the occupant of the premises, the officers responsible for the visit may proceed with the visit only in the presence of two witnesses who are not under their authority.

Only authorised officials, the occupier or his representative may take note of the documents before their seizure.

A report setting out the details and progress of the operation and recording the findings made shall be drawn up immediately by the officials authorized to carry out the visit. If necessary, an inventory of the documents seized shall be attached to it. The minutes and the inventory shall be signed by the authorised officials and by the occupant of the premises or, where appropriate, his representative and the witnesses. In the event of refusal to sign, this shall be recorded in the minutes.

The originals of the minutes and the inventory shall, as soon as they have been drawn up, be sent to the judge who authorized the visit. A copy of the same documents shall be delivered or sent by registered letter with acknowledgement of receipt to the occupant or his representative.

The minutes and the inventory shall mention the time limit and the means of appeal.

The documents seized shall be kept for the purposes of the proceedings, unless an insusceptible decision of appeal in cassation by the parties orders their restitution.

V. - The order authorizing the visit may be appealed to the first President of the Court of Appeal in accordance with the rules laid down in the Code of Civil Procedure. The parties are not required to be counsel.

The appeal shall be filed by declaration delivered or sent by registered post to the court registry within 15 days. This time limit runs from the date of notification of the order. This appeal is not suspensive.

The Registry of the Tribunal de Grande Instance shall forthwith transmit the file of the case to the Registry of the Court of Appeal where the parties may consult it.

The order of the first president of the Court of Appeal may be appealed to the Court of Cassation, in accordance with the rules laid down in the Code of Civil Procedure. The time limit for appeal in cassation is 15 days.

VI. - The first President of the Court of Appeal shall have recourse against the conduct of the visit or seizure operations authorized by the Judge of Liberties and Detention in accordance with the rules laid down in the Code of Civil Procedure. The parties are not required to be counsel.

An appeal shall be brought by declaration delivered or sent by registered post to the Registry of the Court within 15 days. This period shall run from the date of delivery or receipt of either the minutes or the inventory referred to in the first subparagraph. This appeal is not suspensive.

The order of the first president of the Court of Appeal may be appealed to the Court of Cassation in accordance with the rules laid down in the Code of Civil Procedure. The time limit for appeal in cassation is 15 days.

VII. - This article is reproduced in the act of notification of the order of the judge of the liberties and the detention authorizing the visit.

Article 8

Concerning the launch or control of a space object, the administrative authority or, upon delegation thereof, the agents authorized by it for this purpose may, at any time, give instructions and require any measures they consider necessary for the safety of people and property and the protection of public health and of the environment.

The administrative authority or the agents acting under its delegated authority shall consult the operator beforehand, except in the event of any immediate danger.

A decree passed at the Council of State sets forth the terms and conditions of delegation and qualification of the agents responsible for the enforcement of this article.

CHAPTER IV: ADMINISTRATIVE AND CRIMINAL SANCTIONS

Article 9

Authorizations granted pursuant to this law may be withdrawn or suspended in the event of a breach by the holder of its obligations, or where the operations for which they were sought appear to be likely to jeopardize the interests of national defence or the fulfilment by France of its international commitments.

In the event of suspension or withdrawal of the authorization to control a launched space object, the administrative authority may order the operator to take, at its own expense, the measures required, having regard to commonly accepted rules of good conduct, to limit the risks of damage related to said object.

Article 10

In addition to criminal investigation officers and agents acting in accordance with the provisions of the French code of criminal procedure, the agents mentioned in I of Article 7 and sworn are authorized to investigate and determine the breaches of the provisions of this chapter and any implementing provisions. For that purpose, they are granted the powers provided for in II to IV of the same article.

They record such violations in reports which shall be deemed authentic in the absence of evidence to the contrary. They shall be sent to the State prosecutor within five days of being completed.

A decree passed at the Council of State sets forth the modalities of application of this Article.

Article 11

I. – The following shall give rise to a fine of €200,000:

1° Any operator, regardless of its nationality, proceeding without authorization with the launch of a space object from the national territory or from means or facilities under French jurisdiction or with the return of such object onto the national territory or onto means or facilities under French jurisdiction;

2° Any French operator, proceeding without authorization with the launch of a space object from the territory of a foreign State, or from means or facilities under the jurisdiction of a foreign State or from a space not subject to the sovereignty of a State or with the return of such object onto the territory of a foreign State, or onto means or facilities falling under the jurisdiction of a foreign State or a space not subject to the sovereignty of a State;

3° Any individual being a French national or legal entity having its legal seat in France, having a space object launched without authorization or controlling such object without authorization during its travel in outer space.

II. – The following shall give rise to a fine of €200,000:

1° Transferring to a third party, without authorization, the control of a space object the launch or control of which has been authorized under this law;

2° Any French operator controlling without authorization a space object the launch of which has not been authorized under this law.

III. – An operator shall be fined €200,000 in the event that it:

1° continues the space operation in violation of an administrative order or a court decision to cease or suspend;

2° continues the space operation without complying with a notice from the administrative authority to comply with a requirement.

IV. – An operator or individual obstructing or preventing the controls performed under Article 7 shall be fined €200,000.

TITLE III: REGISTRATION OF LAUNCHED SPACE OBJECTS

Article 12

In the event that France is under a registration obligation by virtue of Article II of the convention dated 14 January 1975 relating to the registration of objects launched into outer space and, as applicable, of other international agreements, the launched space objects are entered on a register kept, on behalf of the State, by the Centre national d'études spatiales according to the modalities stipulated by decree passed at the Council of State.

TITLE IV: LIABILITIES

CHAPTER I: LIABILITY TO THIRD PARTIES

Article 13

The operator shall be solely responsible for damage caused to third parties as a result of the space operations conducted by it, in the following manner:

1° It shall be strictly liable for damage caused on the ground and in the air space;

2° In the event of damage caused elsewhere than on the ground or in the air space, it may only be held liable for fault.

Such liability may only be reduced or set aside if the fault of the victim is proven.

Except in the event of willful misconduct, the liability set forth in 1° and 2° ceases as soon as all obligations set forth in the authorization or the license are fulfilled or, at the latest, one year after the date on which the obligations should have been fulfilled. The State shall substitute the operator for damage occurring after that period.

Article 14

When, by virtue of the provisions of the Treaty dated 27 January 1967 relating to the principles governing activities of States in the exploration and use of outer space, including the Moon and other celestial bodies, or of the convention dated 29 March 1972 relating to international liability for damage caused by space objects, the Government has paid compensation for damage, it may take action for indemnity against the operator having caused the damage which involved the international liability of France, inasmuch as it has not already benefited from the insurance or financial guarantees of the operator up to the amount of the compensation.

If the damage was caused by a space object used as part of an operation authorised in accordance with this law, the action for indemnity may be brought:

1° Within the limit of the amount set in the conditions mentioned in Article 16 in the event of damage caused during the launch phase;

2° Within the limit of the amount fixed in the conditions mentioned in article 17 in the event of damage caused after the launch phase, including upon the return of the space object to Earth.

In the event of any intentional wrong by the operator, the limits provided for in 1° and 2° shall not apply.

The government shall not take any action for indemnity if the damage was caused by a space object used as part of an operation authorised in accordance with this law and resulting from acts targeting governmental interests.

Article 15

When an operator has been sentenced to compensate a third party for damage caused by a space object used as part of an operation authorised in accordance with this law, and provided that the operation in question was conducted out of the French territory or the territory of another Member State of the European Union or party to the agreement on the European Economic Area, or from means or facilities falling under the scope of French jurisdiction or the jurisdiction of another Member State of the European Union or party to the agreement on the European Economic Area, the operator shall benefit, except in the event of an intentional wrong, from the governmental guarantee in the manner provided for by the French Finance Act:

1° For the portion of the compensation exceeding the amount set in the conditions mentioned in Article 16 in the event of damage caused during the launch phase;

2° For the portion of the compensation exceeding the amount set in the conditions mentioned in Article 17 in the event of damage caused after the launch phase, including for the return of the space object to Earth.

In the event of damage caused during the launch phase, the governmental guarantee shall, if applicable and in the conditions provided for in the subsections above, benefit persons who are not third parties to a space operation within the meaning of this law.

Article 16

Within the framework set forth by the French Finance Act, the authorization granted pursuant to this law determines, given the risks incurred and having regard in particular for the characteristics of the launch site, the amount respectively below and in excess of which, in the event of damage caused during the launch phase, action for indemnity is taken and the governmental guarantee extended.

Article 17

Within the framework set forth by the French Finance Act, the authorization granted pursuant to this law determines, given the risks incurred, the amount respectively below and in excess of which, in the event of damage caused after the launch phase, action for indemnity is taken and the governmental guarantee extended.

Article 18

Any person implicated in an action for damage before a jurisdiction pursuant to which he/she would be likely to benefit from the governmental guarantee shall inform the competent administrative authority thereof. The latter may, on behalf of the Government, exercise all the defence rights in the proceedings. Failing any such information, the respondent shall be deemed to waive the right to the governmental guarantee.

CHAPTER II: LIABILITY TO PERSONS PARTICIPATING IN THE SPACE OPERATION

Article 19

Where, in order to compensate a third party, the insurance or financial guarantee mentioned in Article 6 as well as, if applicable, the governmental guarantee have been called, one of the persons having taken part in the space operation or in the production of the space object which caused the damage may not be held liable by another of those persons, except in the event of an intentional wrong.

Article 20

In the event of damage caused by a space operation or the production of a space object to a person involved in such operation or production, any other person involved in the space operation or production of the space object having caused the damage and bound to the previous one by a contract may not be held liable for such damage, unless otherwise expressly stipulated in relation to damage caused during the production phase of a space object intended to be controlled in outer space or during its control in orbit, or in the event of an intentional wrong.

TITLE V: PROVISIONS RELATING TO THE FRENCH RESEARCH CODE

Article 21

The French Research Code is amended as follows:

1° Article L. 331-6 is drafted as follows:

“Art. L. 331-6. – I. – On behalf of the Government, the president of the Centre national d’études spatiales applies the special policy relating to the operation of the facilities of the Guyana Space Centre within a perimeter delimited by the competent administrative authority. In this capacity, he/she is entrusted with a general safeguard mission consisting in controlling the technical risks relating to the preparation and performance of launches from the Guyana Space Centre in order to ensure the protection of people, property, public health and the environment, on the ground and in flight, and defines for that purpose the specific regulations applicable within the limits of the above-mentioned perimeter.

“II. – Under authority of the Governmental representative in the department, the president of the Centre national d’études spatiales coordinates the implementation by companies and other bodies set up in the perimeter defined in I of measures aiming to ensure the safety of the facilities and activities conducted therein, and satisfies himself that such companies and bodies fulfil their obligations in this respect.”

“III. – To the extent strictly necessary to accomplish the missions provided for in I and II, the agents authorized by the president of the Centre national d’études spatiales shall have access to the land and premises used exclusively for professional purposes and occupied by the companies and bodies set up in the Guyana Space Centre in the perimeter defined in I.”;

2° After Article L. 331-6, two articles L. 331-7 and L. 331-8 drafted as follows are inserted:

“Art. L. 331-7. – The president of the Centre national d’études spatiales may, by delegation of the administrative authority mentioned in Article 8 of law No. 2008-518 dated June 3rd, 2008 relating to space operations and for any space operation, take the necessary measures provided for in the same article to guarantee the safety of people and property as well as the protection of public health and the environment.

“Art. L. 331-8. – A decree passed at the Council of State sets forth the conditions of application of this chapter, in particular the conditions in which the president of the Centre national d’études spatiales may delegate his/her authority mentioned in Article L. 331-6.”

TITLE VI: INTELLECTUAL PROPERTY

Article 22

I. – Article L. 611-1 of the French Intellectual Property Code is completed by a subsection drafted as follows:

“Except as otherwise provided by an international undertaking to which France is a party, the provisions of this article shall apply to inventions made or used in outer space including on celestial bodies or in or on space objects placed under national jurisdiction under Article VIII of the Treaty dated 27 January 1967 relating to the principles governing the activities of States in the exploration and use of outer space, including the Moon and other celestial bodies.”

II. – Article L. 613-5 of the same code is completed by a point e drafted as follows:

“e) To objects intended to be launched into outer space introduced onto the French territory.”

TITLE VII: SPACE DATA

Article 23

Any primary space data operator conducting in France an activity having certain technical characteristics defined by decree passed at the Council of State must first declare such activity to the competent administrative authority.

These technical characteristics depend in particular on the resolution, the accuracy of location, the observation frequency bands and the quality of the Earth observation data received or for which a satellite system is programmed.

Article 24

The competent administrative authority satisfies itself that the activity of the primary space data operators is not prejudicial to the fundamental interests of the Nation, in particular to national defence, to the foreign policy and to the international undertakings of France.

In this respect, it may at any time recommend restrictions on the activity of primary space data operators that are necessary to safeguard these interests.

Article 25

Any primary space data operator conducting an activity having the technical characteristics mentioned in Article 23 shall be fined €200,000 in the event that:

- 1° it fails to submit the declaration mentioned in Article 23;
- 2° it fails to comply with the restriction measures taken under Article 24.

TITLE VIII: TRANSITIONAL AND FINAL PROVISIONS

Article 26

This law shall not apply to the launch and guiding, for the purposes of national defence, of vehicles the trajectory of which passes through outer space, in particular ballistic missiles.

The activities as primary space data operator conducted by the ministry of defence are not subject to the provisions of Title VII.

Article 27

Insofar as they fall under the scope of a public assignment entrusted to the Centre national d'études spatiales after approval by the administrative authority pursuant to subsection 4 of Article L. 331-2 of the French Research Code, the space object launching, return to Earth, control or control transfer operations are not subject to the provisions of Titles II and IV, and the data reception and satellite activities relating to Earth observation are not subject to the provisions of Title VII.

Article 28

Article L. 331-2 of the Research Code is completed by points *f*, *g* and *h* drafted as follows:

“*f*) Assisting the Government in defining the technical regulations relative to space operations;

g) Verifying, on authority from the Minister in charge of space, that the systems and procedures implemented by the space operators comply with the technical regulations mentioned in *f*;

h) Keeping the space object register on behalf of the Government.”

Article 29

Articles 16 and 17 of this law shall come into effect as of the publication of the Finance Act which sets the minimum and maximum amounts between which is included the amount in excess of which the governmental guarantee is extended.

Article 30

This law is applicable in New Caledonia, French Polynesia, in the Wallis and Futuna islands and in the French Southern and Antarctic territories.

This law shall be implemented as a State Law.

Made in Paris, June 3rd, 2008

By the State President:
NICOLAS SARKOZY

The Prime Minister,
FRANCOIS FILLON

The Minister of the Interior,
MICHÈLE ALLIOT-MARIE

The Minister of Foreign and European Affairs,
BERNARD KOUCHNER

The Minister for Higher Education and Research
VALÉRIE PÉCRESSE

The Defence Minister
HERVÉ MORIN