



Space, the law's new frontier

How the expansion of space activities in Portugal is redefining the role of lawyers and legislators in a rapidly evolving sector

by glória paiva

“Not only are we in the universe, the universe is in us.” The reflection of American astrophysicist **Neil deGrasse Tyson** has never been more relevant than at this moment in human history. From mobility infrastructure, telecommunications, weather forecasting, defense, and natural resource management to the dream of expanding humanity's reach, the universe has never felt so close to Earth and our daily lives. A multitude of human activities already depends on space-based solutions, and technological advances, the entry of private companies, and international cooperation are contributing to the development of the sector. In this context, “space law” is emerging as an essential field, which still needs to evolve to address the regulatory and ethical challenges of this new frontier.

“The growth of what is called New Space—a private sector aiming to democratize access to space and reduce the cost of related activities—is also contributing to the universalization of these activities, even in countries without launch centers, like Portugal”, explains **Magda Cocco**, partner and head of the information, communication and technology practice, the digital frontiers practice and head of the aerospace sector at Vieira de Almeida (VdA). The Atlantic nation has been adopting a series of unprecedented measures to encourage the



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Key areas of demand and potential growth in Space Law:

- Regulation of commercial space activities
- Ownership and exploitation of space resources
- Environmental management and sustainability
- Security and defense in space
- Civil liability and insurance for damages and risks
- Privacy and protection of personal and sensitive data
- International contracts
- Communications regulation and compliance
- New space propulsion technologies
- Intellectual property and patents



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Magda Cocco

sector's development, such as establishing the Portuguese Space Agency and investing in space infrastructure, like the Spaceport in the Azores. Portugal is collaborating with international partners and projects like Copernicus, NASA, MIT, and the European Space Agency, and has engineering schools with programs specifically designed for the space sector. This year, On September 26 and 28, the first test launches of rockets were carried out from the spaceport in the Azores, on the island of Santa Maria,..., with the autonomous region aiming to become "an Atlantic hub for space."

Portugal's trajectory could enable its inclusion in an exclusive club of nations with strategically

and economically significant space programs. "The creation of a launch base in the Azores will undoubtedly place the country in a prominent position. Involvement in international projects positions Portugal as a development hub with great potential to lead initiatives in telecommunications and space exploration", says **João Leitão Figueiredo**, partner in the technology, media & communications, intellectual property, and life sciences & healthcare practices at CMS Portugal.

NEW LEGAL CHALLENGES

In a scenario marked by the lowering of launch costs and the commercial exploitation of space resources and related activities, new demands are arising related to legislation, regulation, and licensing. In February, Portugal took an important step forward by adopting Decree-

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companies in Portugal are already involved in space activities

€ 140

million was invested in the sector in Portugal in 2023

€ 2.5

billion is the total investment Portugal aims to attract for the sector by 2030*

€ 20

million will be invested in the Iberian Space Partnership, a satellite network to monitor forests and coasts in Portugal and Spain

Source: Agência Espacial Portuguesa

*Goal established in 2019 as part of the preparation for the European Space Agency's Space19+ Ministerial Council

Law 20/2024, which updates the so-called Space Law of 2019. The new decree established rules for licensing and sustainability, facilitating the establishment of launch centers by private companies and simplifying administrative procedures. According to **Ana Rita Paínho**, partner in the life sciences, intellectual property, and TMT departments at Sérvulo & Associados, the new legislation “aims to stimulate opportunities and flexibility in the establishment of launch centers, a positive approach that must now be tested.” Changes in international legislation, however, may impact the practice of Space Law locally. According to Magda Cocco, “the most substantial impact is expected to come with the future European space law, which will bring strict requirements and new opportunities

for the sector.”

In such a rapidly changing environment, some of the major law firms are already preparing to meet growing demand. With offices in 48 jurisdictions, CMS, for example, already has experience with various realities in this area. “We have advised companies and organizations on launch contracts, partnerships with governments, regulation of commercial space operations, and data protection. We have also been involved in matters related to civil liability and technological innovation in the sector”, says Leitão Figueiredo. A recent example involves a low-earth orbit satellite constellation project, where the firm provided legal and regulatory advice. According to the lawyer, new startups, tech companies, and satellite operators increasingly require assistance in such matters.



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Ana Rita Paínho

Sérvulo & Associados, meanwhile, already had a set of clients interested in the field, served by its technology, media, and telecommunications practices, but the firm decided to create a space law department in March. “We noticed a growing market interest in satellite communications constellations, as well as in adjacent areas of manufacturing components for space launches. The sector’s growth and demand for innovative solutions in software, components, and production have a direct impact on intellectual property and TMT”, explains partner Ana Rita Paínho.

Active in the space sector since 2010, Vieira de Almeida supports market players, public entities and projects with international organizations on various issues such as space cybersecurity or blockchain in satellite communications. VdA is also part of New Space Portugal, a consortium of 39 entities, aimed at developing and launching Earth Observation satellites. In partnership with GEOSAT, Nova SBE, and CoLAB +Atlantic, the firm is conducting a study that will help identify opportunities, gaps, and challenges for Portugal in this market. Earth Observation generates essential data for analysing scenarios in various areas of human activity, from climate change and epidemic mapping to urban planning and civil protection.

A RAPIDLY TRANSFORMING SCENARIO

The expansion of space activities brings new legal challenges—some anticipated, others yet to come. In the context of technologies such as satellite constellations and advanced telecommunications systems, there is already significant demand for services related to patent, trademark, and copyright protection concerning software, hardware, and algorithms. “Protecting innovations is a central issue, given the sector's competitiveness. Data protection and the management of trade secrets have also become increasingly important”, Leitão Figueiredo notes.

According to Ana Rita Paínho, another important issue is space debris. “It is necessary to establish regulations on the shared use of outer space, the launching of objects into space, their removal, and return”, she ponders. Also, it is important to consider what is yet unknown. “In a sector marked by rapid technological evolution,

we always have to ‘deal’ with things that weren’t foreseen”, states Paínho.

Soon, emerging topics such as space mining and in-orbit services will require further legal knowledge. “Space activities – says Magda Cocco – do not escape the big questions of our time”. Important issues, according to the VdA's partner, will soon include the sustainability and the ownership of potential space resources, as well as the need to establish security requirements for using these resources on Earth, considering risks such as contamination.

As humanity explore new frontiers in space, Space Law will play an increasingly crucial role in ensuring legal compliance and rights protection in a rapidly evolving landscape. “For those who provide legal support to tech-based sectors, the disruptive potential of technology give rise to all kinds of legal challenges, forcing the law to evolve”, points out Cocco. ¹⁰⁷

