Title: When the EU Insolvency Framework Meets Outer Space: The Recast EIR, the Insolvency III Directive, and the Case for a Dedicated EU Space Insolvency Instrument

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Abstract

The insolvency of a space operator exposes a gap in EU insolvency law that existing instruments are poorly equipped to address. This paper examines that gap from an EU perspective, framing it as a collision between EU private commercial law and the public international law obligations imposed on Member States as launching States under the Outer Space Treaty 1967 and the Liability Convention 1972. It makes three contributions.

First, it argues that the EU Insolvency Regulation Recast is ill suited to distressed space assets. Its rules on registered rights are confined to immovable property, ships, and aircraft, the United Nations Register of Objects Launched into Outer Space is not kept under the authority of a Member State, centre of main interests analysis for multinational satellite operators remains uncertain, and the lex concursus provides no clear answer to assets in orbit.

Second, it shows that the Insolvency III Directive and the proposed EU Space Act do not address the insolvency of space operators, including the continuity of operator authorisation, the treatment of registered space objects, or the State liability consequences arising under the Liability Convention.

Third, it identifies an EU competence obstacle to the effective use of the Space Assets Protocol to the Cape Town Convention.

The paper illustrates the urgency of reform through the IRIS² satellite constellation programme and proposes three reforms: amendment of Article 14 of the Recast Regulation, insertion of an operator insolvency chapter into the EU Space Act, and Union level engagement with the Space Assets Protocol.