

15.11.2013

A7-0321/ 001-001/rev

AMENDMENTS 001-001/rev

by the Committee on Industry, Research and Energy

Report

Marian-Jean Marinescu

A7-0321/2013

European satellite navigation systems: implementation and exploitation

Proposal for a regulation (COM(2011)0814 – C7-0464/2011 – 2011/0392(COD))

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

REGULATION (EU) No .../2013
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the implementation and exploitation of European satellite navigation systems *and*
repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the
European Parliament and of the Council

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

THE EUROPEAN PARLIAMENT AND THE COUNCIL *OF THE EUROPEAN UNION*,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) The aim of the European satellite navigation policy is to provide the Union with two satellite navigation systems, the system established under the Galileo programme and the EGNOS system ('the systems'). These systems arise respectively from the Galileo and EGNOS programmes. Each infrastructure *consists* of satellites and a network of *ground* stations.

¹ OJ C 181, 21.6.2012, p. 179.

² *Position of the European Parliament of xx November 2013.*

- (2) The aim of the Galileo programme is to establish and operate the first global satellite navigation and positioning infrastructure specifically designed for civilian purposes, *which can be used by a variety of public and private actors in Europe and worldwide*. The system established under the Galileo programme *functions independently* of other existing or potential systems, *thus contributing amongst other things to the strategic autonomy of the Union, as emphasised by the European Parliament and the Council*.
- (3) The aim of the EGNOS programme is to improve the quality of *open* signals from existing global navigation satellite systems ('GNSS') *as well as those from the open service offered by the system established under the Galileo programme, when they become available*. *The services provided by the EGNOS programme should cover, as a priority, the Member States' territories geographically located in Europe, including for this purpose the Azores, the Canary Islands and Madeira*.

- (4) The European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions have consistently given their full support to the Galileo and EGNOS programmes.
- (5) Since the Galileo and EGNOS programmes are at an advanced development stage leading to systems in an exploitation phase, a specific legal instrument is required to meet their needs, particularly in terms of governance and *security*, to satisfy the requirement for sound financial management *and to promote the use of the systems*.

- (6) The systems are infrastructures set up as trans-European networks of which the use extends well beyond the national boundaries of the Member States. Furthermore, the services offered through these systems contribute **■** to *a wide range of economic and social activities, including* the development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.
- (7) The Galileo and EGNOS programmes are an industrial policy tool and are part of the Europe 2020 strategy, as illustrated by the Commission Communication of 17 November 2010 entitled 'An integrated industrial policy for the globalisation era: putting competitiveness and sustainability at centre stage' **■**. They are also referred to in the *Commission* Communication *of* 4 April 2011 **■** entitled 'Towards a space strategy for the European Union that benefits its citizens' **■**. *Those* programmes provide many advantages for the economy and citizens of the Union, whose cumulative value has been estimated at approximately EUR 130 billion in the period 2014-2034.

- (8) *A growing number of economic sectors, in particular transport, telecommunications, agriculture and energy, increasingly use satellite navigation systems. Public authorities can also benefit from these systems in various areas such as emergency services, police, crisis management or border management. Developing the use of satellite navigation brings enormous benefits to the economy, society and the environment. Such socio-economic benefits are broken down into three main categories: direct benefits resulting from the growth of the space market, direct benefits resulting from the growth of the downstream market for GNSS-based applications and services, and indirect benefits resulting from the emergence of new applications in, or technology transfer to, other sectors, leading to new market opportunities in other sectors, productivity gains across industry and public benefits generated by a reduction in pollution or by improved levels of safety and security.*
- (9) *It is therefore important that the Union support the development of applications and services based on the systems. This will allow the citizens of the Union to reap the benefits derived from the systems, and ensure that public confidence in the Galileo and EGNOS programmes is maintained. The appropriate instrument to finance research and innovation activities relating to the development of GNSS-based applications is Horizon 2020 – the []-Framework Programme for Research and Innovation ("Horizon 2020") established by Regulation (EU) No .../2013 of the European Parliament and of the Council¹ *. However, a very specific upstream part of research and development activities should be financed from the budget allocated to the Galileo and EGNOS programmes under this Regulation, where such activities concern fundamental elements such as Galileo-enabled chipsets and receivers, which will facilitate the development of applications across different sectors of the economy. Such financing should nevertheless not jeopardise the deployment or exploitation of the infrastructures established under the programmes.*

¹ *Regulation (EU) No .../2013 of the European Parliament and of the Council of ... establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ)*

* OJ : Please insert number of the Regulation contained in PE-CONS 67/13 and complete footnote.

- (10) Given the increasing use of satellite navigation across a great number of fields of activity, an interruption in the supply of services could lead to significant harm to modern society ***and result in losses for many economic operators***. In addition, due to their strategic aspect, satellite navigation systems are sensitive infrastructures, that could be susceptible to malicious use. These factors could affect the security of the Union, its Member States ***and its citizens***. Security requirements should therefore be taken into account in the design, development, deployment and ***exploitation*** of the infrastructures ***established under the Galileo and EGNOS programmes in accordance with standard practices***.
- (11) The Galileo programme includes a definition phase which ***has been completed***, a development and validation phase ***until*** 2013, a deployment phase which was launched in 2008 and is due for completion in 2020, and an exploitation phase which should be launched progressively from 2014-15 in order to have a fully operational system in 2020. ***The first four operational satellites have been constructed and launched during the development and validation phase, while the full constellation of satellites should be completed during the deployment phase and replenishment should occur during the exploitation phase. The associated ground-based infrastructure should be developed and operated accordingly.***

- (12) The EGNOS programme has been in the exploitation phase since its open service and 'safety of life' service were declared operational in October 2009 and March 2011 respectively. *Subject to technical and financial constraints and on the basis of international agreements, the geographical coverage of the services provided by the EGNOS system could be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of countries in the European Neighbourhood Policy. However, such extension to other regions of the world should not be financed by the budgetary appropriations assigned to the Galileo and EGNOS programmes under Council Regulation (EU, Euratom) No .../2013¹* and should not delay the extension of the coverage throughout the Member States' territories geographically located in Europe.*
- (13) *The original design of the Galileo safety-of-life service as provided for in Regulation (EC) No 683/2008 of the European Parliament and of the Council² has been re-profiled to ensure its interoperability with other GNSS, to respond effectively to safety-of-life user needs and to reduce the complexity, risks and costs of the required infrastructure.*

¹ Council *Regulation (EU, Euratom) No .../2013 of ... laying down the multiannual financial framework for the years 2014-2020 (OJ L)* .

* OJ: Please insert number of the Regulation in document st 11791/13 and complete footnote.

² *Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo) (OJ L 196, 24.7.2008, p. 1) .*

- (14) *To maximise the take-up of the EGNOS safety-of-life service, it should be provided without direct user charge. The Galileo public regulated service (PRS) should also be offered free of charge to the following PRS participants, within the meaning of Decision No 1104/2011/EU of the European Parliament and the Council¹: Member States, the Council, the Commission, the European External Action Service ("EEAS") and duly authorised Union agencies. The absence of charges should not be understood to affect the provisions regarding the costs of the functioning of a competent PRS authority as laid down in Decision No 1104/2011/EU.*
- (15) In order to optimise the use of the services provided, the systems, networks and services emerging from the Galileo and EGNOS programmes should be compatible and interoperable with one another and, insofar as possible, with other satellite navigation systems and with conventional means of radio navigation *where such compatibility and interoperability is laid down in an international agreement, without prejudice to the objective of strategic autonomy.*

¹ *Decision No 1104/2011/EU of the European Parliament and the Council of 25 October 2011 on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (OJ L 287, 4.11.2011, p. 1).*

- (16) Since the Union is responsible, in principle, for financing the Galileo and EGNOS programmes in full, provision should be made for **the Union** to own all tangible and intangible assets created or developed under **those** programmes. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements should be made with existing owners, particularly with respect to essential elements of the infrastructures and their security. ***It should be understood that the provisions on ownership of intangible assets laid down in this Regulation do not cover intangible rights that are not transferable under relevant national laws. Such ownership by the Union should be without prejudice to the possibility for the Union, in accordance with this Regulation and where it is deemed appropriate on the basis of a case-by-case assessment, to make those assets available to third parties or to dispose of them. In particular, the Union should be able to transfer the ownership of or license the intellectual property rights arising from work under the Galileo and EGNOS programmes to third parties.*** In order to facilitate the market uptake of satellite navigation, there is a need to ensure that third parties can make optimum use in particular of the intellectual property rights arising from the Galileo and EGNOS programmes which belong to the Union, including at social and economic level.

- (17) *Assets created or developed outside the Galileo and EGNOS programmes are not affected by the provisions on ownership laid down in this Regulation. However, such assets might, on occasion, be relevant to the performance of the programmes. In order to encourage the development of new technology outside the Galileo and EGNOS programmes, the Commission should encourage third parties to draw its attention to relevant intangible assets and should, where it would be beneficial to the programmes, negotiate terms as to the appropriate use thereof.*
- (18) The deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme should **■** be entirely financed by the Union. However in accordance with Regulation *(EU, Euratom) No 966/2012 of the European Parliament and of the Council*¹, the Member States should be able to provide additional funding to the Galileo and EGNOS programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements *relating to the potential particular objectives of the Member States concerned*. Third countries and international organisations should also be able to contribute to the programmes.

¹ Regulation *(EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p. 1).*

- (19) In order to *ensure the continuity and stability of the Galileo and EGNOS programmes and considering their European dimension and their intrinsic European added value, sufficient and consistent funding is required over financial planning periods*. It is also necessary to indicate the amount required between 1 January 2014 to 31 December 2020 to finance completion of the deployment phase of the Galileo programme and the exploitation phases of the Galileo and EGNOS programmes.

(20) ***Regulation (EU, Euratom) No .../2013**** allocates a maximum of EUR 7 071,73 million in current prices for the financing of activities relating to the Galileo and EGNOS programmes for the period from 1 January 2014 to 31 December 2020. ***For the sake of clarity and in order to facilitate cost control, that overall amount should be broken down into various categories. Nonetheless, in the interest of flexibility and to ensure the smooth running of the programmes, the Commission should be able to re-allocate funds from one category to another. The programme activities should also include*** the protection of the systems and their operation, including during the launch of satellites. In this respect, a contribution to the costs of services capable of providing such protection ■ could be financed by the budget allocated to the Galileo and EGNOS programmes insofar as possible following rigorous cost management and full compliance with the maximum amount established in ■ Regulation (EU, Euratom) No .../2013*. ***Such contribution should be used only for the provision of data and services and not for the purchase of infrastructure. This*** Regulation lays down a financial envelope for the continuation of the Galileo and EGNOS programmes which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of ... 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management^{1**} for the European Parliament and the Council during the annual budgetary procedure.

* OJ: Please insert number of Regulation in document st 11791/13.

¹ OJ C ...

** OJ: Please insert date, as well as the reference of publication in note 1.

** OJ: Please insert date, as well as the reference of publication in note 1.

- (21) The activities for which the Union budget appropriations ***assigned*** to the Galileo and EGNOS programmes for the period 2014-2020 are to be granted should be specified in this Regulation. Such appropriations should be granted mainly for activities relating to the deployment phase of the Galileo programme, including management and monitoring activities for that phase, and activities relating to the ***exploitation*** of the system established under the Galileo programme, including actions preceding or in preparation for the exploitation phase of that programme, as well as for activities relating to the ***exploitation*** of the EGNOS system. They should also be granted for funding certain other activities required to manage and achieve the objectives of the Galileo and EGNOS programmes, ***in particular support for research and development of fundamental elements, such as Galileo enabled chipsets and receivers, including as appropriate positioning and integrity-monitoring software modules. Those elements constitute the interface between the services offered by the infrastructures and downstream applications, and facilitate the development of applications throughout various sectors of the economy. Their development acts as a catalyst for the maximisation of socio-economic benefits as it facilitates the market uptake of the services offered. The Commission should report annually to the European Parliament and the Council on the cost-management strategy pursued.***

- (22) It is important to note that the investment and operating costs of the systems as estimated for the period 2014-2020 do not take account of unforeseen financial obligations which the Union may be obliged to assume, in particular those relating to ■ liability arising from the *performance of the services or Union* ownership of the systems, *especially with regard to any malfunctioning of the systems*. Those obligations are the subject of a specific analysis by the Commission.
- (23) It should also be noted that the budgetary resources planned under this Regulation do not cover work financed by funds allocated to Horizon 2020 ■ , such as that associated with the development of applications derived from the systems. Such work will help to optimise the use of the services provided in the context of the Galileo and EGNOS programmes, to ensure a good social and economic return on the investments made by the Union and to increase the know-how of businesses in the Union with regard to satellite navigation technology. *The Commission should ensure that there is transparency and clarity regarding the different sources of funding for the different aspects of the programmes.*

- (24) In addition, the revenue generated by the systems *arising, in particular, from the commercial service provided by the system established under the Galileo programme*, should accrue to the Union in order to *partially* compensate it for the investments that it has made previously, *and that revenue should be used to support the objectives of the Galileo and EGNOS programmes*. A revenue-sharing mechanism might also be provided for in contracts concluded with private sector entities.
- (25) In order to avoid the cost over-runs and delays which have affected the progress of the Galileo and EGNOS programmes in the past, efforts need to be stepped up to control risks which might lead to excess costs *and/or delays* as requested by the *European Parliament in its resolution of 8 June 2011 on the mid-term review of the European satellite navigation programmes: implementation assessment, future challenges and financing perspectives¹* and by the Council █ conclusions █ of 31 March 2011, and as shown by the *Commission* Communication █ of 29 June 2011 entitled 'A budget for Europe 2020'.

¹ *OJ C 380 E, 11.12.2012, p. 84.*

- (26) Sound public governance of the Galileo and EGNOS programmes requires, first, that there be a strict division of *responsibilities and* tasks, in particular between the Commission, the European GNSS Agency and the European Space Agency (**ESA**) and, second, that the governance be progressively adapted to the operational requirements of the systems.
- (27) Given that *the Commission* represents the Union, which, in principle, provides financing for the Galileo and EGNOS programmes alone and owns the systems, the Commission should be responsible for the progress of those programmes and their *overall* supervision. It should manage the funds allocated to the programmes under *this* Regulation, supervise the implementation of all activities of the programmes and *ensure* a clear division of *responsibilities and* tasks, in particular between the European GNSS Agency and **ESA**. Accordingly, in addition to the tasks associated with these general responsibilities and the other tasks incumbent upon it under this Regulation, the Commission should be assigned ■ specific tasks. In order to optimise the resources and competences of the various stakeholders, it should be able to delegate certain tasks by means of delegation agreements, in accordance with Regulation (*EU, Euratom*) No 966/2012.

- (28) *Considering the importance for the Galileo and EGNOS programmes of the ground-based infrastructure of the systems and its impact on their security, the determination of the location of the infrastructure should be one of the specific tasks assigned to the Commission. The deployment of the ground-based infrastructure of the systems should continue to follow an open and transparent process. The location of such infrastructure should be determined by taking into account geographical and technical limitations associated with the optimum geographical distribution of the ground-based infrastructure and the possible presence of existing installations and equipment suitable for the relevant tasks, as well as by ensuring compliance with the security needs of each ground station and with the national security requirements of each Member State.*

- (29) The European GNSS Agency was set up by Regulation (EU) No 912/2010 of the European Parliament and of the Council¹ in order to achieve the objectives of the Galileo and EGNOS programmes and implement certain tasks associated with the progress of those programmes. It is an agency of the Union which, as a body within the meaning of Regulation *(EU, Euratom) No 966/2012*, is subject to the obligations applicable to Union agencies. It should be assigned certain tasks associated with programme security *and* its potential designation as a competent PRS authority. *It should also contribute to the promotion and marketing of the systems, including by establishing contacts with users and potential users of the services provided under the Galileo and EGNOS programmes, and it should collect information on their requirements and developments on the satellite navigation market. Furthermore, it should* perform tasks which the Commission confers on it by means of one or more delegation agreements covering other various specific tasks associated with the programmes, *in particular* tasks associated with the exploitation phases of the systems, *including the operational management of the programmes*, the promotion of the applications and services on the satellite navigation market *and the promotion of the development of fundamental elements relating to the programmes*. In order for the Commission, representing the Union, to exercise its power of control fully, those delegation agreements should include the general conditions governing the management of funds entrusted to the European GNSS Agency. *The transfer of responsibility to the European GNSS Agency for tasks associated with the operational management of the Galileo and EGNOS programmes and their exploitation should be gradual and conditional on the successful completion of an appropriate handover review as well as on the readiness of the European GNSS Agency to take on such tasks, in order to secure those programmes' continuity. For EGNOS, the handover should take place on 1 January 2014; for Galileo, it is expected to occur in 2016.*

¹ Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council (OJ L 276, 20.10.2010, p. 11).

- (30) *For the deployment phase of the Galileo programme, the Union should conclude a [] delegation agreement with ESA setting out the tasks of ESA in that phase. The Commission, representing the Union, should make every effort to conclude that delegation agreement within six months of the date of application of this Regulation.* In order for the Commission [] to exercise its power of control fully, the delegation agreement should include the general conditions for managing the funds entrusted to ESA. In respect of activities exclusively financed by the Union, such conditions should ensure a degree of control comparable to that required if ESA were an agency of the Union.
- (31) *For the exploitation phase of the Galileo and EGNOS programmes, the European GNSS Agency should conclude working arrangements with ESA setting out the latter's task in developing future generations of the systems and in providing technical support in relation to the existing generation of systems. Those arrangements should comply with Regulation (EU, Euratom) No 966/2012. They should not cover the role of ESA as regards activities relating to research and technology, or the early phases of evolution and research activities relating to the infrastructures established under the Galileo and EGNOS programmes. Such activities should be financed outside the scope of the budget allocated to the programmes, for instance by funds allocated to Horizon 2020 .*

- (32) Responsibility for the progress of the Galileo and EGNOS programmes includes, in particular, responsibility for their security and the security of their systems and operation. Except in the case of application of Council Joint Action 2004/552/CFSP¹, which ***needs to be reviewed to reflect the*** changes in the Galileo and EGNOS programmes, their governance and the changes to the Treaty on European Union and the Treaty on the Functioning of the European Union resulting from the Treaty of Lisbon, the Commission is responsible for security, even if certain security-related tasks are entrusted to the European GNSS Agency. It is the responsibility of the Commission to establish mechanisms to ensure suitable coordination between the various entities responsible for security.
- (33) ***In the application of this Regulation, for matters relating to security, the Commission should consult the relevant security experts of the Member States.***
- (34) Given the specific expertise of ***EEAS*** and its regular contact with administrations of third countries and international organisations, it is in a position to assist the Commission in performing certain of its tasks relating to ***the*** security of ***the*** systems and ***the*** Galileo and EGNOS programmes in the field of external relations, in accordance with Council Decision 2010/427/EU². ***The Commission should ensure that EEAS is fully associated with its activities in implementing security-related tasks in the field of external relations. To that end, all necessary technical support should be provided to EEAS.***

¹ Council Joint Action 2004/552/CFSP of 12 July 2004 on aspects of the operation of the European satellite radio-navigation system affecting the security of the European Union (OJ L 246, 20.7.2004, p. 30).

² Council Decision 2010/427/EU of 26 July 2010 ***establishing the organisation and functioning*** of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

- (35) *To ensure the secure circulation of information, within the scope of this Regulation, the relevant security regulations should offer a degree of protection for EU-classified information equivalent to that provided by the rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom¹ and by the security rules of the Council set out in the Annexes to Council Decision 2013/488/EU². Each Member State should ensure that its national security regulations apply to all natural persons resident on its territory and to all legal entities established on its territory which deal with EU-classified information regarding the Galileo and EGNOS programmes. The security regulations of ESA and the Decision of 15 June 2011 of the High Representative of the Union for Foreign Affairs and Security Policy³ should be considered as equivalent to the rules on security set out in the Annex to Decision 2001/844/EC, ECSC, Euratom and to the security rules set out in the Annexes to Decision 2013/488/EU.*

¹ *2001/844/EC, ECSC, Euratom: Commission Decision of 29 November 2001 amending its internal Rules of Procedure (OJ L 317, 3.12.2001, p. 1).*

² *2013/488/EU: Council Decision of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).*

³ *OJ C 304, 15.10.2011, p. 7.*

- (36) *This Regulation is without prejudice to existing and future rules on access to documents adopted in accordance with Article 15(3) of the Treaty on the Functioning of the European Union (TFEU). Furthermore, this Regulation should not be understood as imposing an obligation on Member States to disregard their constitutional requirements in respect of access to documents.*
- (37) In order to allocate the Union funds attributed to the Galileo and EGNOS programmes with a ceiling total that the Commission should not exceed, effective public procurement procedures should be applied and, in particular, contracts negotiated so as to ensure optimum use of resources, satisfactory services, smooth running of programmes, good risk management and compliance with the proposed schedule. The *relevant* contracting authority should make every effort to meet those requirements.

- (38) As the Galileo and EGNOS programmes will be, in principle, financed by the Union, public procurement under those programmes should comply with Union rules on public contracts and should aim, first and foremost, to obtain best value for money, control costs, mitigate risks, improve efficiency and reduce reliance on a single supplier. Open access and fair competition throughout the supply chain and the balanced offering of participation opportunities to industry at all levels, including, in particular, new entrants and small and medium-sized enterprises ('SMEs'), should be ensured. Possible abuse of dominant position and of long-term reliance on single suppliers should be avoided. In order to mitigate programme risks, to avoid reliance on a single source of supply and to ensure better overall control of the programmes and their costs and schedules, multiple sourcing should be pursued, wherever appropriate. ***Moreover, the development of European industry should be preserved and promoted in all areas relating to satellite navigation, in accordance with international agreements to which the Union is Part. The risk of poor contract performance or of non-performance should be mitigated as much as possible. To that end, contractors should demonstrate the sustainability of their contractual performance with respect to the commitments undertaken and the duration of the contract. Therefore, contracting authorities should, wherever appropriate, specify requirements relating to the reliability of supplies and of the provision of services. In addition, in the case of the purchase of goods and services of a sensitive nature, contracting authorities may subject such purchase to specific requirements, particularly with a view to ensuring security of information.*** Union industries should be permitted to rely on non-Union sources for certain components and services where substantial advantages are demonstrated in terms of quality and costs, taking account, however, of the strategic nature of the programmes and of Union security and export control requirements. Advantage should be taken of public sector investment and industrial experience and competence, including that acquired during the definition and development and validation phases of the programmes, while ensuring that the rules on competitive tendering are not contravened.

- (39) *In order to better evaluate the total cost of a product, service or work being tendered, including its long term operational cost, the total cost over the useful lifecycle of the product, service or work being tendered should be taken into account wherever appropriate during the procurement, by using a cost effectiveness approach such as lifecycle costing when pursuing procurement based on the criterion of the most economically advantageous tender award. For that purpose, the contracting authority should make sure that the methodology intended to compute the costs for the useful lifecycle of a product, service or work is expressly mentioned in the contract documents or the contract notice and that it allows the accuracy of the information supplied by the tenderers to be verified.*

- (40) Satellite navigation is a ■ complex and constantly changing technology. This results in uncertainty and risk for public contracts concluded under the Galileo and EGNOS programmes, insofar as such contracts may involve long-term commitments to equipment or services. Those characteristics require specific measures to be implemented concerning public contracts which apply in addition to the rules laid down in Regulation *(EU, Euratom) No 966/2012*. The contracting authority should thus be able to restore a level playing-field when one or more companies have, prior to a call for tenders, privileged information on the activities associated with the call for tender. It should be possible to award a contract in the form of a conditional stage-payment contract, introduce an amendment, under certain conditions, in the context of its performance, or even impose a minimum level of subcontracting. Finally, due to the technological uncertainties that are a feature of the Galileo and EGNOS programmes, contract prices cannot always be forecast accurately and it is therefore desirable to conclude contracts in a specific form that do not stipulate a firm fixed price and include clauses to safeguard the financial interests of the Union.

- (41) It should be noted that, in accordance with Article 4(3) of the Treaty on **European Union ("TEU")**, the Member States should not take measures which could *be detrimental to* the Galileo and EGNOS programmes *or the services*. It should also be made clear that the Member States concerned should take all necessary measures *to ensure the protection of the ground stations established on their territories. In addition, Member States and the Commission should work together and with appropriate international bodies and regulatory authorities to ensure that the radio spectrum necessary for the system established under the Galileo programme is available and protected to allow for the full development and implementation of applications based on that system, in compliance with Decision No 243/2012/EU of the European Parliament and of the Council*¹.

¹ *Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).*

- (42) In view of the global nature of the systems, it is essential that the Union enter into agreements with third countries and international organisations in the context of the Galileo and EGNOS programmes under Article 218 TFEU, in particular to ensure their smooth implementation, *deal with certain questions relating to security and charging*, optimise the services provided to citizens of the Union and meet the needs of third countries and international organisations. It is also useful, where necessary, to adapt existing agreements to changes in the Galileo and EGNOS programmes. When preparing or implementing those agreements, the Commission may have recourse to the assistance of *EEAS*, *ESA* and the European GNSS Agency, within the limits of the tasks allocated to them under this Regulation.
- (43) It should be confirmed that the Commission, in performing certain of its tasks of a non-regulatory nature, may have recourse, as required and insofar as necessary, to the technical assistance of certain external parties. Other entities involved in the public governance of the Galileo and EGNOS programmes may also make use of the same technical assistance in performing tasks entrusted to them under this Regulation.

- (44) *The Union is based on respect for fundamental rights and in particular Articles 7 and 8 of the Charter of Fundamental Rights of the European Union expressly recognize the fundamental right to privacy and to the protection of personal data.* Protection of personal data and private life should be ensured under the Galileo and EGNOS programmes.
- (45) The financial interests of the Union *should* be protected *through* proportionate measures throughout the expenditure cycle, *including the* prevention, detection *and investigation* of irregularities, *the recovery of funds* lost, *wrongly* paid or *incorrectly used and, where appropriate, administrative and financial* penalties *in accordance with Regulation (EU, Euratom) No 966/2012.*
- (46) It is necessary to ensure that the European Parliament and the Council are kept regularly informed about the implementation of the Galileo and EGNOS programmes, *in particular with regard to risk management, cost, schedule and performance.* In addition, the European Parliament, the Council and the Commission will meet in the Galileo Interinstitutional Panel in accordance with the Joint declaration on the Galileo Interinstitutional Panel published together with this Regulation.

- (47) Assessments, ***based on agreed indicators***, should be carried out by the Commission in order to evaluate the effectiveness and efficiency of the measures taken to achieve the objectives of the Galileo and EGNOS programmes.
- (48) In order to **■** ensure the security of the systems and their operation, the power ***to adopt acts in accordance with Article 290 TFEU*** should be delegated to the Commission ***in respect of the high level objectives necessary to ensure the security of the systems and their operation***. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure ***a simultaneous, timely and appropriate transmission of*** relevant documents to the European Parliament and to the Council.

- (49) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. **Those** powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (50) As sound public governance requires uniform management of the Galileo and EGNOS programmes, faster decision-making and equal access to information, representatives of the European GNSS Agency and **ESA** should be able to take part as observers in the work of the European GNSS Programmes Committee (**"the Committee"**) **established to assist the Commission**. For the same reasons, representatives of third countries and international organisations who have concluded an international agreement with the Union should be able to take part in the work of the **Committee subject to security constraints and as provided for in the terms of such agreement**. These representatives of the European GNSS Agency, **ESA**, third countries and international organisations are not entitled to take part in Committee voting procedures.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (51) Since the objective of this Regulation, namely the establishment and *exploitation* of satellite navigation systems, cannot be sufficiently achieved by the Member States since it exceeds the financial and technical capacities of any single Member State, and can therefore, *by reason of its scale and effects*, be better achieved by action at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 *TEU*. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (52) The Galileo Joint Undertaking created by Council Regulation (EC) No 876/2002¹ ceased its operations on 31 December 2006. ■ Regulation (EC) No 876/2002 should *therefore* be repealed.
- (53) Given the need to evaluate the Galileo and EGNOS programmes, the extent of the changes to be made to Regulation (EC) No 683/2008, and in the interests of clarity and legal certainty, Regulation (EC) No 683/2008 *should* be repealed,

HAVE ADOPTED THIS REGULATION:

¹ Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking (OJ L 138, 28.5.2002, p. 1).

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject

This Regulation lays down the rules in relation to the implementation and *exploitation* of the systems under the European satellite navigation programmes, in particular those relating to the governance and the financial contribution of the Union.

Article 2

European satellite navigation systems and programmes

1. The *European satellite navigation programmes*, Galileo and EGNOS, shall cover all the activities needed to define, develop, validate, construct, operate, renew and improve the European satellite navigation systems, namely the system established under the Galileo programme and the EGNOS system, and to ensure their security *and interoperability*.

Those programmes shall also aim to maximise the socio-economic benefits of the European satellite navigation systems, in particular by promoting the use of the systems and fostering the development of applications and services based on those systems.

2. The system established under the Galileo programme *shall be a civil system under civil control and* an autonomous global navigation satellite system (GNSS) infrastructure consisting of a constellation of satellites and a global network of *ground* stations.
3. The EGNOS system *shall be a regional satellite navigation system* infrastructure monitoring and correcting *open* signals emitted by existing global satellite navigation systems, *as well as the open service signals offered by the system established under the Galileo programme, when they become available.* It consists of *ground* stations and several transponders installed on geostationary satellites.

4. The specific objectives of the Galileo programme ***shall be*** to ensure that the signals emitted by the system ***established*** under that programme can be used to fulfil the following ■ functions:
- (a) to offer an open service (OS), which is free ***of charge*** to the user and provides positioning and synchronisation information intended ***mainly*** for high-volume satellite navigation applications;
 - (b) ***to contribute, by means of Galileo open service signals and/or in cooperation with other satellite navigation systems, to integrity-monitoring services aimed at users of safety-of-life applications in compliance with international standards;***
 - (c) to offer a commercial service (CS) for the development of applications for professional or commercial use by means of improved performance and data with greater added value than those obtained through the open service;

- (d) to offer a public regulated service (PRS) restricted to government-authorised users, for sensitive applications which require a high level of service continuity, *free of charge for the Member States, the Council, the Commission, EEAS and, where appropriate, duly authorised Union agencies*; this service uses strong, encrypted signals. *The question of whether to charge the other PRS participants referred to in Article 2 of Decision No 1104/2011/EU shall be assessed on a case-by-case basis and appropriate provisions shall be specified in the agreements concluded pursuant to Article 3(5) of that Decision*;
- (e) to **contribute to** the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting *distress* signals *transmitted* by beacons and relaying messages to them.

5. The specific objectives of the EGNOS programme *shall be* to ensure that the signals emitted by the EGNOS system can be used to fulfil the following ■ functions:
- (a) to offer an open service (OS), which is free *of charge* to the user, and provides positioning and synchronisation information intended *mainly* for high-volume satellite navigation applications in the area covered by the *EGNOS* system;
 - (b) to offer a service for the dissemination of commercial data, namely the EGNOS Data Access Service (EDAS), to promote the development of applications for professional or commercial use by means of improved performance and data with greater added value than those obtained through *its* open service;

- (c) to offer a safety-of-life service (SoL) service aimed at users for whom safety is essential; ■ this service, *which is provided free of direct user charges*, fulfils *in particular* the requirements of certain sectors for continuity, availability and accuracy and includes an integrity message alerting the user to any failure in, *or out-of-tolerance signals from, systems augmented by the EGNOS system* over the coverage area.

As a priority, those functions shall be provided within the Member States' territories geographically located in Europe as soon as possible.

The geographical coverage of the EGNOS system may be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of countries in the European Neighbourhood Policy, subject to technical feasibility and on the basis of international agreements. The cost of such extension, including the related exploitation costs, shall not be covered by the resources referred to in Article 9. Such extension shall not delay the extension of the geographical coverage of the EGNOS system throughout the Member States' territories geographically located in Europe.

Article 3
Galileo programme phasing

The Galileo programme shall consist of the following phases:

- (a) a definition phase during which the structure of the system was designed and its elements determined, which ended in 2001;
- (b) a development and validation phase, *scheduled to be completed by 31 December 2013*, comprising the construction and launch of the first satellites, the establishment of the first ground-based infrastructure and all the work and operations necessary to validate the system in orbit; ■
- (c) a deployment phase ■ to be completed *by 31 December 2020, comprising:*

- (i) *the construction, establishment and protection of all space-based infrastructure, in particular of all the satellites necessary to achieve the specific objectives referred to in Article 2(4) and of the required spare satellites, and the related evolutive maintenance and operations;*
 - (ii) *the construction, establishment and protection of all ground-based infrastructure, in particular of the infrastructure required to control the satellites and process the satellite radio-navigation data, and of service centres and other ground-based centres, and the related evolutive maintenance and operations;*
 - (iii) *preparations for the exploitation phase, including preparatory activities relating to the provision of the services referred to in Article 2(4);*
- (d) an exploitation phase comprising:
 - (i) *the management, maintenance, continuous improvement, evolution and protection of the space-based infrastructure, including replenishment and obsolescence management;*

- (ii) *the management, maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular of service centres and other ground-based centres, networks and sites, including replenishment and obsolescence management;*
- (iii) *the development of future generations of the system and the evolution of the services referred to in Article 2(4);*
- (iv) certification and standardisation operations associated with the programme;
- (v) the *provision* and marketing of *the* services *referred to in Article 2(4);*
- (vi) *cooperation with other GNSS;* and
- (vii) all other activities needed to develop *the* system and ensure that the programme runs smoothly.


■ The exploitation phase *shall* begin progressively between 2014 and 2015 with the provision of the initial services *for the open service, search and rescue service and public regulated service. Those initial services shall be gradually improved and the other functions specified in the specific objectives referred to in Article 2(4) shall be gradually implemented with the aim of reaching full operational capability by 31 December 2020.*

Article 4

■ The EGNOS *exploitation phase*

■ The EGNOS *exploitation phase* mainly *comprises*:

- (a) *the management, maintenance, continuous improvement, evolution and protection of the space-based infrastructure, including replenishment and obsolescence management;*
- (b) *the management ■ , maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular networks, sites and support facilities, including replenishment and obsolescence management;*

- (c) *the development of future generations of the system and the evolution of the services referred to in Article 2(5);*
- (d)  certification and standardisation *operations* associated with the programme;
- (e) *the provision and marketing of the services referred to in Article 2(5);*
- (f) all elements justifying the reliability of the system and its *exploitation*;
- (g) *coordination activities relating to the completion of the specific objectives pursuant to the second and third subparagraphs of Article 2(5).*

Article 5

Compatibility and interoperability of the systems

1. The systems, networks and services resulting from the Galileo and EGNOS programmes shall be compatible and interoperable *from a technical point of view*.

2. The systems, networks and services resulting from the Galileo and EGNOS programmes shall **■** be compatible and interoperable with other satellite navigation systems *and* with conventional means of radio navigation, *where such compatibility and interoperability requirements are laid down in an international agreement concluded pursuant to Article 29.*

■

Article 6

Ownership

The Union shall be the owner of all tangible and intangible assets created or developed under the Galileo and EGNOS programmes. To that effect, agreements shall be concluded with third parties, wherever appropriate, with regard to existing ownership rights.

■ The Commission shall ensure, *through an appropriate framework, the optimal use of the assets referred to in this Article; in particular, it shall manage the intellectual property rights relating to the Galileo and EGNOS programmes as effectively as possible, taking into account the need to protect and give value to the Union's intellectual property rights, the interests of all stakeholders, and the necessity of harmonious development of the markets and of new technologies. To that end, it shall ensure that the contracts entered into, under the Galileo and EGNOS programmes, include the possibility of transferring or licensing intellectual property rights arising from work performed under those programmes to third parties.*

CHAPTER II
BUDGETARY CONTRIBUTION AND MECHANISMS

Article 7

Activities

1. The Union budgetary appropriations ***assigned*** to the Galileo and EGNOS programmes for the period 2014-2020 under this Regulation shall be granted to finance activities relating to:
 - (a) the ***completion of the*** deployment phase of the Galileo programme ***as referred to in Article 3(c)***;
 - (b) ***the exploitation phase of*** the Galileo programme ***as referred to in Article 3(d)***;
 - (c) the ***exploitation phase*** of the EGNOS ***programme as referred to in Article 4***;
 - (d) ***the management and monitoring of the Galileo and EGNOS programmes.***

2. *The Union budgetary appropriations assigned to the Galileo and EGNOS programmes shall, in accordance with Article 9(2), also be granted to finance activities relating to research and development of fundamental elements, such as Galileo-enabled chipsets and receivers.*
3. The Union **budgetary** appropriations assigned to the Galileo and EGNOS programmes **shall** also cover Commission expenditure relating to the preparation, monitoring, inspection, audit and assessment activities required for the management **of the programmes** and the implementation of the specific objectives **referred to in Article 2(4) and (5). Such expenditure may cover** in particular **■** :
- (a) studies and meetings with experts;
 - (b) information and communication activities, including institutional communication on the policy priorities of the Union where they are directly linked to the objectives of this Regulation, **with a particular view to creating synergies with other relevant Union policies**;
 - (c) IT technology networks, with the objective of processing or transferring data;

- (d) any other technical or administrative assistance given to the Commission for the management of the programmes.
4. ■ The costs of the Galileo and EGNOS programmes and of the different phases of those programmes *shall* be clearly identified. The Commission shall, in accordance with the principle of transparent management, inform *the European Parliament, the Council and* the Committee referred to in Article 36 ("the Committee") *on an annual basis* of the allocation of Union funds, *including the contingency reserve*, to each of the activities specified in paragraphs 1, 2 and 3 of this Article *and of the use of those funds*.

Article 8

Financing of the Galileo *and EGNOS* programmes

1. ■ In accordance with Article 9, the Union *shall finance the activities relating to Galileo and EGNOS programmes referred to in Article 7(1), (2) and (3), to fulfil the objectives as set out in Article 2*, without prejudice to *any contribution from any other funding source, including those referred to in* paragraphs 2 and 3 of *this* Article.

2. **■** Member States may make a *request to* provide additional funding for the Galileo *and EGNOS* programmes to cover additional elements in particular cases, on condition that such additional elements do not create any financial or technical burden or any delay for the programme concerned. On the basis of a request from a Member State, the Commission shall decide, in accordance with the examination procedure referred to in Article 36(3), whether those two conditions have been met. The Commission shall communicate any impact on the Galileo *and EGNOS* programmes resulting from the application of this paragraph to the *European Parliament, the Council and the* Committee.
3. Third countries and international organisations may also provide additional funding for the Galileo *and EGNOS* programmes. The *international* agreements referred to in Article 29 *shall* stipulate the conditions and arrangements for their involvement.
4. *The additional funding referred to in paragraphs 2 and 3 of this Article shall constitute external assigned revenue in accordance with Article 21(2) of Regulation (EU, Euratom) No 966/2012.*

I

Article 9
Resources

1. The financial envelope for the implementation of the activities referred to in Article 7(1), (2) and (3) ***and for covering the risks associated with those activities*** is set at EUR 7 071,73 million in current prices for the period from 1 January 2014 to 31 December 2020.

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

The amount referred to in the first subparagraph shall be broken down in the following categories of expenditure in current prices:

- (a) for the activities referred to in point (a) of Article 7(1), EUR 1 930 million;***
- (b) for the activities referred to in point (b) of Article 7(1), EUR 3 000 million ;***
- (c) for the activities referred to in point (c) of Article 7(1), EUR 1 580 million ;***
- (d) for the activities referred to in point (d) of Article 7(1) and in Article 7(3), EUR 561,73 million.***

2. *Without prejudice to any amounts allocated to the development of applications based on the systems within Horizon 2020, the budgetary appropriations assigned to the Galileo and EGNOS programmes, including assigned revenues, shall finance the activities as referred to in Article 7(2) up to a maximum of EUR 100 million at constant prices.*
3. *The Commission may re-allocate funds from one category of expenditure, as laid down in points (a) to (d) of the third subparagraph of paragraph 1, to another, up to a ceiling of 10 % of the amount referred to in the first subparagraph of paragraph 1. Where the re-allocation reaches a cumulative amount greater than 10 % of the amount referred to in the first subparagraph of paragraph 1, the Commission shall consult the Committee in accordance with the advisory procedure referred to in Article 36(2).*

The Commission shall inform the European Parliament and the Council of any re-allocation of funds between categories of expenditure.

4. The appropriations shall be implemented in accordance with the applicable provisions of this Regulation and Regulation (EU, Euratom) No 966/2012.
5. Budgetary commitments for the Galileo and EGNOS programmes shall be appropriated in annual instalments.

6. ***The Commission shall manage the financial resources referred to in paragraph 1 in a transparent and cost-effective manner. The Commission shall report annually to the European Parliament and the Council on the cost-management strategy pursued.***

Article 10

Revenue generated by the Galileo and EGNOS programmes

1. Revenue generated by ***the exploitation*** of the systems shall be collected by the Union, paid to the Union budget and allocated to the Galileo and EGNOS programmes, ***and in particular to the objective referred to in Article 2(1)***. If the income proves to exceed that required to fund the programme exploitation phases, any adaptation of the principle of allocation shall be approved by the ***European Parliament and the Council*** on the basis of a proposal from the Commission.
2. A revenue-sharing mechanism may be provided for in contracts concluded with private sector entities.

3. The interest generated by pre-financing payments made to entities responsible for implementing the budget indirectly ***shall be*** assigned to activities subject to the delegation agreement or the contract concluded between the Commission and the entity concerned. In accordance with the principle of sound financial management, the entities responsible for indirect implementation of the budget shall open accounts enabling the funds and corresponding interest to be identified.

CHAPTER III

PUBLIC GOVERNANCE OF THE GALILEO AND EGNOS PROGRAMMES

Article 11

Principles for governance of the Galileo and EGNOS programmes

Public governance of the Galileo and EGNOS programmes ***shall be*** based on the ***principles*** of:

- (a) a strict division of tasks ***and responsibilities*** between the various entities involved, in particular the Commission, the European GNSS Agency and ***ESA, under the overall responsibility of the Commission;***

- (b) *sincere cooperation between the entities referred to in point (a) and the Member States;*
- (c) *strong control of programmes, including for strict adherence to cost and schedule by all the entities involved, within their fields of responsibility, with respect to the objectives of the Galileo and EGNOS programmes;*
- (d) *optimisation and rationalisation of the use of existing structures, in order to avoid any duplications of technical expertise;*
- (e) *the use of the best practice project management systems and techniques to oversee the implementation of the Galileo and EGNOS programmes, in the light of the specific requirements and with the support of experts in the field.*

Article 12
Commission's role

1. The Commission ***shall have overall responsibility*** for the Galileo and EGNOS programmes. It ***shall manage*** the funds allocated ■ under this Regulation and ***oversee*** the implementation of all programme activities, ***in particular with respect to their cost, schedule and performance***.
2. In addition to the ***overall responsibility*** referred to in paragraph 1 and ***the specific tasks*** referred to in ■ this Regulation, the ***Commission shall***:
 - (a) ■ ensure a clear division of tasks between the various entities involved in the Galileo and EGNOS programmes and to this end ***it shall*** allocate the tasks referred to in ***Article 14(2)*** and ***Article 15*** respectively, in particular by means of delegation agreements, to the European GNSS Agency and ***ESA***;
 - (b) ***ensure the timely implementation of the Galileo and EGNOS programmes within the resources allocated to the programmes and in accordance with the objectives laid down in Article 2.***

To that end, it shall *establish and* implement the *appropriate* instruments and structural measures necessary to identify, control, mitigate and monitor the risks associated with the programmes ■ ;

- (c) ■ manage, on behalf of the Union and within its field of competence, relationships with third countries and international organisations;
- (d) *provide to the Member States and the European Parliament, in a timely manner, all relevant information pertaining to the Galileo and EGNOS programmes, in particular in terms of risk management, overall cost, annual operating costs of each significant item of Galileo infrastructure, revenues, schedule and performance, as well as an overview of the implementation of the project management systems and techniques referred to in point (e) of Article 11;*
- (e) *assess the possibilities for promoting and ensuring the use of the European satellite navigation systems across the various sectors of the economy, including by analysing how to take advantage of the benefits generated by the systems.*

3. ■ For the smooth progress of the deployment and exploitation phases of the Galileo programme and the *exploitation phase* of the EGNOS *programme* referred to respectively in *Articles* 3 and 4, the Commission shall lay down, *where necessary*, the measures, required to:
- (a) *manage and* reduce the risks inherent in the progress of the Galileo and EGNOS programmes;
 - (b) define the key decision stages to monitor and evaluate the implementation of the programmes;
 - (c) determine the location ■ of the ground-based infrastructure of the systems *in accordance with security requirements, following an open and transparent process and ensure its operation*;
 - (d) *determine the technical and operational specifications necessary to fulfil the functions referred to in points (b) and (c) of Article 2(4) and to implement systems evolutions.*

Those implementing *acts* shall be adopted in accordance with the *examination* procedure referred to in Article 36(3).

Article 13

Security of *the* systems and their operation

1. *The Commission shall ensure the security of the Galileo and EGNOS programmes, including the security of the systems and their operation. To that effect, the Commission shall:*
 - (a) *take into account the need for the oversight and integration within all the programmes of security-related requirements and standards;*
 - (b) *ensure that the overall effect of those requirements and standards will support the successful progress of the programmes, in particular in terms of costs, risk management and schedule;*
 - (c) *establish coordination mechanisms between the various bodies involved;*

(d) take into account the security standards and requirements in force in order not to lower the general level of security and not to affect the functioning of existing systems based on those standards and requirements.

2. Without prejudice to Articles 14 and 16 of this Regulation and Article 8 of Decision No 1104/2011/EU **■**, the Commission *shall adopt* delegated acts in accordance with Article 35, *laying down* the *high level objectives* necessary to ensure the security of the *Galileo and EGNOS programmes* referred to in paragraph 1. **■**
3. *The Commission shall establish the necessary technical specifications and other measures to implement the high level objectives referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36(3).*
4. *EEAS shall continue to assist the Commission, in the exercise of its functions in the area of external relations,* in accordance with Article 2(2) of Decision 2010/427/EU **■**.

Article 14

The role of the European GNSS Agency

1. █ In accordance with the guidelines laid down by the Commission, the European GNSS Agency shall █ :
 - (a) *ensure*, with regard to the security of the Galileo and EGNOS programmes, and without prejudice to Articles 13 and 16 █ :
 - (i) *through its Security Accreditation Board*, the security *accreditation* in accordance with Chapter III of Regulation (EU) No 912/2010; accordingly, it shall initiate and monitor the implementation of security procedures and perform system security audits;

- (ii) the operation of the Galileo *Security Monitoring Centre, as referred to in Article 6(d) of Regulation (EU) No 912/2010*, in accordance with the standards and requirements referred to in Article 13 *of this Regulation* and the instructions pursuant to Joint Action 2004/552/CFSP;
- (b) █ perform the tasks █ provided for in Article 5 of Decision No 1104/2011/EU, █ and █ assist the Commission █ in accordance with Article 8(6) of *that* Decision;
- (c) *contribute, in the context of the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme, to the promotion and marketing of the services referred to in Article 2(4) and (5), including by carrying out the necessary market analysis, in particular through the market report produced annually by the European GNSS Agency on the market for applications and services, by establishing close contacts with users and potential users of the systems with a view to collecting information on their needs, by following developments in satellite navigation downstream markets, and by drawing up an action plan for the uptake by user community of the services referred to in Article 2(4) and (5), comprising in particular relevant actions relating to standardisation and certification.*

2. ***The European GNSS Agency shall also perform other ■ tasks relating to the implementation of the Galileo and EGNOS programmes, including programme management tasks, and shall be accountable for them. Those tasks shall be entrusted to it by the Commission by means of a delegation agreement adopted on the basis of a delegation decision, in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012 and shall include:***
- (a) operational activities including systems infrastructure management, maintenance and continuous improvement of the systems, certification and standardisation operations and provision of the services referred to in Article 2(4) and (5);***
 - (b) development and deployment activities for the evolution and future generations of the systems, and contribution to the definition of service evolutions, including procurement;***

- (c) *promoting the development of applications and services based on the systems, as well as raising awareness of such applications and services, including identifying, connecting and coordinating the network of European centres of excellence in GNSS applications and services, drawing on public and private sector expertise, and evaluating measures relating to such promotion and awareness-raising;*
 - (d) *promoting the development of fundamental elements, such as Galileo-enabled chipsets and receivers.*
- 3. *The delegation agreement referred to in paragraph 2 shall confer an appropriate level of autonomy and authority on the European GNSS Agency, with particular reference to the contracting authority, within the framework of Article 58(1)(c) and Article 60 of Regulation (EU, Euratom) No 966/2012. In addition, it shall lay down general conditions for the management of the funds entrusted to the European GNSS Agency and, in particular, the actions to be implemented, the relevant financing, management procedures, monitoring and control measures, the measures applicable in the event of inadequate implementation of contracts in terms of costs, schedule and performance, as well as the rules regarding ownership of all tangible and intangible assets.*

The monitoring and control measures shall, in particular, provide for a provisional cost forecast system, for systematic information to the Commission on costs and schedule, and, in the event of a discrepancy between the planned budgets, performance and schedule, for corrective action ensuring the implementation of the infrastructures within the limits of the budgets allocated.

4. *The European GNSS Agency shall enter into the working arrangements with ESA that are necessary for the fulfilment of their respective tasks under this Regulation for the exploitation phase of the Galileo and EGNOS programmes. The Commission shall inform the European Parliament, the Council and the Committee of such working arrangements concluded by the European GNSS Agency and any changes thereto. Whenever appropriate, the European GNSS Agency may also consider having recourse to other public or private sector entities.*

5. In addition to the tasks referred to in *paragraphs 1 and 2* and within the *scope* of its mission, the European GNSS Agency shall provide the Commission with its technical expertise and supply any information necessary for the performance of its tasks under this Regulation, *including for the assessment of the possibility of promoting and ensuring the use of the systems referred to in point (e) of Article 12(2)*.
6. The Committee shall be consulted on the delegation decision referred to in *paragraph 2* of this Article, in accordance with the *advisory* procedure referred to in Article 36(2). The *European Parliament, the Council and the* Committee shall be informed *in advance* of the delegation agreements to be concluded by the Union, as represented by the Commission, and the European GNSS Agency.
7. *The Commission shall inform the European Parliament, the Council and the Committee of the interim and final results of the evaluation of any procurement tenders and of any contracts with private sector entities, including the information relating to subcontracting.*

Article 15

The role of the European Space Agency

1. ***For the deployment phase of the Galileo programme as referred to in Article 3(c), the Commission shall conclude a [] delegation agreement **without delay** with **ESA** detailing the latter's tasks, in particular as regards the design, development and procurement of the system. The delegation agreement with ESA shall be concluded on the basis of a delegation decision adopted by the Commission in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012.***

The delegation agreement shall, insofar as necessary for the tasks and budget implementation delegated, lay down the general conditions for the management of the funds entrusted to **ESA**, and, in particular, the actions to be implemented **as regards the design, development and procurement of the system**, the relevant financing, management procedures and monitoring and control measures, the measures applicable in the event of inadequate **implementation** of contracts **in terms of costs, schedule and performance, as well as** the rules regarding ownership of all tangible and intangible **assets**.

The monitoring and control measures shall, in particular, provide for a provisional cost forecast system, for systematic information **to** the Commission on costs **and schedule**, and, in the event of a discrepancy between the planned budgets, **performance and schedule**, for corrective action ensuring the implementation of the infrastructures within the limits of the budgets allocated.

2. The Committee shall be consulted on the delegation decision referred to in paragraph 1 of this Article, in accordance with the *advisory* procedure referred to in Article 36(2). The *European Parliament, the Council and the* Committee shall be informed *in advance* of the █ delegation agreement to be concluded by the *Union, as represented by the* Commission, and *ESA*.
3. The *Commission shall inform the European Parliament, the Council and the Committee* █ of the interim and final results of the evaluation of the procurement tenders and of the contracts with private sector entities to be concluded by *ESA, including the information relating to subcontracting*.
4. *For the exploitation phase of the Galileo and EGNOS programmes as referred to in Article 3(d) and Article 4, the working arrangements between the European GNSS Agency and ESA, referred to in Article 14(4) shall address the role of ESA during that phase and its co-operation with the European GNSS Agency, in particular as regards:*

- (a) conception, design, monitoring, procurement and validation in the framework of the development of future generations of the systems;*
- (b) technical support in the framework of operation and maintenance of the existing generation of the systems.*

Those arrangements shall comply with Regulation (EU, Euratom) No 966/2012 and with the measures laid down by the Commission in accordance with Article 12(3).

- 5. Without prejudice to the delegation agreement and the working arrangements referred to in paragraphs 1 and 4 respectively, the Commission may request from ESA technical expertise and information necessary for the performance of its tasks under this Regulation.*

CHAPTER IV
ASPECTS RELATING TO THE SECURITY OF THE UNION OR OF THE MEMBER
STATES

Article 16
Joint Action

Whenever the security of the Union or its Member States may be affected by the operation of the systems, the procedures set out in ■ Joint Action 2004/552/CFSP shall apply.

Article 17
Application of the *rules* on classified information

Within the scope of this Regulation:

- (a) each Member State shall ensure that *its national* security regulations *offer* a degree of protection *of EU classified information equivalent to that provided by the* rules on security *as* set out in the Annex to Decision 2001/844/EC, ECSC, Euratom and by the security *rules* of the Council set out in the *Annexes* to Decision *2013/488/EU*;

- (b) Member States shall ***without delay*** inform the Commission ■ of the national security regulation as referred to in point (a);
- (c) natural persons resident in and legal persons established in third countries may deal with ***EU*** classified information regarding the Galileo and EGNOS programmes only where they are subject, in those countries, to a security regulation ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in the Annex to Decision 2001/844/EC, ECSC, Euratom and by the security ***rules*** of the Council set out in the ***Annexes*** to Decision 2013/488/EU. ■ The equivalence of the security regulation applied in a third country ***or international organisation shall be defined*** in a ***security of information*** agreement ***between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU;***

- (d) *without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in the Annex to Decision 2001/844/EC, ECSC, Euratom, a natural person or legal person, third country or international organisation may be given access to EU classified information where deemed necessary on a case by case basis, according to the nature and content of such information, the recipient's need-to-know and the degree of advantage to the Union.*

CHAPTER V

PUBLIC PROCUREMENT

SECTION I

General provisions applicable to public procurement conducted as part of the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme

Article 18

General principles

Without prejudice to measures required to protect the essential interests of the security of the Union or public security or to comply with Union export control requirements, Regulation ***(EU, Euratom) No 966/2012*** shall apply to the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme **■**. Moreover, the following general principles shall also apply to the deployment and exploitation phases of the Galileo programme and to the exploitation phase of the EGNOS programme: open access and fair competition throughout the industrial supply chain, tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules, selection and award criteria and any other relevant information allowing a level-playing field for all potential bidders.

Article 19
Specific objectives

During the procurement procedure, the following objectives shall be pursued ***by the contracting authorities in their calls for tender:***

- (a) to promote the widest and most open participation possible throughout the Union by all economic operators, in particular by new entrants and SMEs, ***including through encouraging recourse to sub-contracting by the tenderers;***
- (b) to avoid possible abuse of a dominant position and ■ reliance on a single supplier;
- (c) to take advantage of prior public sector investments and lessons learned, as well as industrial experience and competences, including that acquired in the definition, development and validation and deployment phases of the Galileo and EGNOS programmes, while ensuring that competitive tendering rules are complied with;
- (d) ***to pursue multiple sourcing wherever appropriate in order to ensure better overall control of the Galileo and EGNOS programmes, their costs and schedule;***
- (e) ***to take into account wherever appropriate the total cost over the useful lifecycle of the product, service or work being tendered.***

SECTION 2

Specific provisions applicable to public procurement conducted as part of the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme

Article 20

Establishing fair competition conditions

The contracting authority ***shall*** take the appropriate measures to ensure fair competition conditions when the previous involvement of a company in activities associated with the subject of the call for tender:

- (a) may confer significant advantages on that company in terms of privileged information and therefore may give rise to concerns as to compliance with the principle of equal treatment; or
- (b) affect normal competition conditions or the impartiality and objectivity of the award or performance of the contracts.

These measures ***shall*** not distort competition, or jeopardise equal treatment or the confidentiality of data collected about undertakings, their business relations and cost structure. In that context, those measures shall take into account the nature and particulars of the intended contract.

Article 21

Security of information

When contracts involve, require and/or contain classified information, the contracting authority shall specify in the tender documents the measures and requirements necessary to ensure the security of such information at the requisite level.

Article 22

Reliability of supply

The contracting authority shall specify in the tender documents its requirements in relation to the reliability of supplies and of the provision of services for the execution of the contract.

Article 23

Conditional stage-payment contracts

1. The contracting authority may award a contract in the form of a conditional stage-payment contract.

2. A conditional stage-payment contract ***shall include*** a fixed stage which shall be accompanied by a budgetary commitment ***which results in a firm commitment to provide the works, supplies or services contracted for that stage,*** and one or more **■** stages ***which are conditional in terms of both budget and execution.*** The tender documents shall refer to the specific features of conditional stage-payment contracts. In particular, they shall specify the subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for the provision of works, supplies and services at each stage.
3. The fixed stage obligations shall be part of a consistent whole; the same shall be true for the obligations under each conditional stage, taking into account the obligations under the previous stages.
4. The performance of each conditional stage ***shall be*** subject to a decision by the contracting authority, notified to the contractor in accordance with the contract. When a conditional stage is confirmed late or is not confirmed, the contractor may benefit, if the contract so provides and under the conditions laid down therein, from a tide-over allowance or a non-execution allowance.

5. *Where, with regard to a particular stage, the contracting authority finds that works, supplies, or services agreed for that stage have not been completed, it may claim damages and terminate the contract, if the contract so provides and under the conditions laid down therein.*

Article 24

Cost-reimbursement contracts

1. ■ The contracting authority may opt for a full or partial cost-reimbursement contract up to a ceiling price, under the *conditions* laid down in paragraph 2.
- The price to be paid *for such contracts shall consist* of reimbursement of all direct costs incurred by the contractor in performing the contract, such as expenditure on labour, materials, consumables, and use of the equipment and infrastructures necessary to perform the contract. These costs *shall be* increased by a fixed fee covering indirect costs and the profit, or a sum covering indirect costs and incentive fee compensation based on achieving objectives in respect of performance and delivery schedules.

2. The contracting authority may opt for a full or partial cost-reimbursement contract when it is objectively impossible to specify an accurate fixed price and if it can be reasonably shown that such a fixed price would be abnormally high due to the uncertainties inherent in performance of the contract because:
- (a) ■ the contract has very complex features or features which require the use of a new technology and, therefore, includes a significant number of technical risks;
or
 - (b) the activities subject to the contract must, for operational reasons, start immediately even though it is not yet possible to determine a firm fixed price in full due to significant risks or because the performance of the contract depends in part on the performance of other contracts.
3. The ceiling price for a full or partial cost-reimbursement contract ***shall be*** the maximum price payable. It may be exceeded only in duly justified exceptional circumstances subject to prior agreement by the contracting authority.

4. The tender documents of a procurement procedure for a full or partial cost-reimbursement contract shall specify:
- (a) the type of contract, namely whether it is a full or partial cost-reimbursement contract up to a ceiling price;
 - (b) for a partial cost-reimbursement contract, the elements of the contract subject to cost-reimbursement;
 - (c) the total ceiling price;
 - (d) the award criteria, which must enable an evaluation of the plausibility of the estimated overall budget, of the reimbursable costs, of the mechanisms for determining those costs, and the profit referred to in the tender to be evaluated;

- (e) the mechanics of the increase referred to in paragraph 1 to be applied to direct costs;
 - (f) the rules and procedures which determine the eligibility of the costs planned by the tenderer for the performance of the contract, in accordance with the principles set out in paragraph 5;
 - (g) the accounting rules with which tenderers must comply;
 - (h) in the case of a partial cost-reimbursement contract to be converted into a firm fixed-price contract, the parameters for such conversion.
5. The costs declared by the contractor during the performance of a full or partial cost-reimbursement contract shall only be eligible if *they*:
- (a) **■** are actually incurred in the course of the contract, with the exception of the costs for the equipment, infrastructures and intangible fixed assets necessary for performance of the contract which may be deemed eligible up to the whole of their purchase value;

- (b) ■ are referred to in the estimated overall budget which may be revised by amendments to the initial contract;
- (c) ■ are necessary for the performance of the contract;
- (d) ■ result from and are attributable to the performance of the contract;
- (e) ■ are identifiable, verifiable, recorded in the contractor's accounting record and determined in accordance with the accounting standards referred to in the specifications and in the contract;
- (f) ■ comply with the requirements of applicable tax and social law;
- (g) ■ do not derogate from the terms of the contract;
- (h) ■ are reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

The contractor ***shall be*** responsible for its own cost accounting, keeping sound accounting records or any other document required to show that the costs for which reimbursement is requested have been incurred and comply with the principles set out in this Article. Costs which cannot be substantiated by the contractor shall be deemed ineligible and their reimbursement shall be refused.

6. The contracting authority ***shall be*** responsible for the following tasks in order to ensure correct performance of cost-reimbursement contracts:
 - (a) determining the most realistic possible ceiling price, while providing the necessary flexibility to account for technical difficulties;
 - (b) converting a partial cost-reimbursement contract into a full firm fixed-price contract as soon as it is possible to determine such a firm fixed-price during performance of the contract. For that reason, it shall determine the conversion parameters to convert a contract concluded on a cost-reimbursement basis to a firm fixed-price contract;

- (c) implementing monitoring and control measures which provide, in particular, an estimated cost forecast system;
- (d) determining suitable principles, tools and procedures for the performance of the contract, in particular for identifying and checking the eligibility of the costs declared by the contractor or its subcontractors during the performance of the contract, and for introducing amendments to the contract;
- (e) checking that the contractor and its subcontractors comply with the accounting standards stipulated in the contract and with the obligation to provide their accounting documents which should present a true and fair view of the accounts;
- (f) throughout the performance of the contract, continuously ensuring the effectiveness of the principles, tools and procedures referred to in *point (d)*.

Article 25
Amendments

The *contracting authority and the contractors* may *change the contract* by an amendment on condition that the amendment fulfils all of the following conditions:

- (a) it does *not* alter the subject-matter of the contract,
- (b) it does *not* disturb the economic balance of the contract,
- (c) it does not introduce conditions which, if they had appeared initially in the contract documents, would have allowed for the admission of tenderers other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted.

Article 26
Subcontracting

1. The contracting authority *shall request the* tenderer to subcontract *a share* of the contract *by competitive tendering* at *the appropriate* levels *of sub-contracting* to companies *other than those that* belong to the *tenderer's* group *in particular to new entrants and SMEs.* ■
2. *The contracting authority shall express the requisite share of the contract to be subcontracted in the form of a range from a minimum to a maximum percentage. It shall ensure that such percentages are proportionate to the objective and value of the contract, taking into account the nature of the sector of activity concerned, and in particular, the competitive conditions and the industrial potential observed.*

3. ***If the tenderer indicates in its tender that it intends not to sub-contract any share of the contract or to subcontract a share smaller than the minimum range referred to in paragraph 2, it shall provide the reasons therefore to the contracting authority. The contracting authority shall submit that information to the Commission.***
4. The contracting authority may reject subcontractors selected by the candidate at the stage of the main contract award procedure or by the tenderer selected for the performance of the contract. It shall justify its rejection in writing, which may be based only on the criteria used for selection of tenderers for the main contract.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Article 27

Programming

■ The Commission shall adopt an annual work programme ***in the form of an*** implementation plan ***of the actions required to meet the specific objectives of the Galileo programme laid down in Article 2(4) according to the phases set out in Article 3 and the specific objectives of the EGNOS programme laid down in Article 2(5). The annual work programme shall also provide for the funding of those actions.***

Those implementing measures shall be adopted in accordance with the *examination* procedure referred to in Article 36(3).

Article 28
Member States' action

The Member States shall take all necessary measures *to ensure the good functioning of the Galileo and EGNOS programmes including measures to ensure the protection of the ground stations established on their territories which shall be at least equivalent to those required for the protection of* European critical infrastructures within the meaning of Council Directive 2008/114/EC¹. *The Member States shall not take any measures which could be detrimental to the programmes or the services provided through their exploitation, in particular in terms of the continuity of the operation of the infrastructures.*

¹ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

Article 29

International agreements

The Union may enter into agreements with third countries and international organisations in the context of the Galileo and EGNOS programmes ■ in accordance with the procedure laid down in Article 218 *TFEU*.

Article 30

Technical assistance

In order to *carry out* the technical tasks referred to in Article 12(2), the Commission may have recourse to the necessary *technical* assistance, in particular *to* the *capacity and expertise of* the national agencies competent in the space sector, *or the assistance of* independent experts and bodies capable of providing impartial analyses and opinions on the progress of the Galileo and EGNOS programmes.

The entities involved in the public governance of the programmes, other than the Commission, in particular, the European GNSS Agency and *ESA*, may also receive the same technical assistance in performing the tasks entrusted to them under this Regulation.

Article 31

Personal data and privacy protection

1. The Commission shall ensure that personal data and privacy ***are*** protected during the design, implementation ***and exploitation*** of the systems and that the appropriate safeguards are included therein.
2. All personal data handled in the context of the tasks and activities provided for in this Regulation shall be processed in accordance with the applicable law on personal data protection, in particular Regulation (EC) No 45/2001 of the European Parliament and of the Council¹ and Directive 95/46/EC of the European Parliament and of the Council².

¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council ***of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data*** (OJ L 8, ***12.1.2001***, p. 1).

² Directive 95/46/EC of the European Parliament and of the Council ***of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data*** (OJ L 281, ***23.11.1995***, p. 31).

Article 32

Protection of the Union's financial interests

1. The Commission shall take the appropriate measures to ensure that the financial interests of the Union are protected when actions financed under this Regulation are implemented, by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of amounts unduly paid and, if necessary, by effective, proportionate and dissuasive penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of document and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.

The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections of economic operators directly or indirectly concerned by such funding in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹ and Council Regulation (Euratom, EC) No 2185/96² with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or decision or a contract concerning Union financing.

Without prejudice to the first and second subparagraphs, international agreements with third countries and with international organisations, grant agreements, grant decisions and contracts resulting from the application of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations in accordance with their respective competences.

-
- ¹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).
- ² Council Regulation (Euratom, EC) No 2185/96 *of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities* (OJ L 292, 15.11.1996, p. 2).

Article 33

Information to the European Parliament and to the Council

- I.** The Commission shall ensure the implementation of this Regulation. Each year, when it presents the preliminary draft budget, it shall present a report to the European Parliament and to the Council on the implementation of the Galileo and EGNOS programmes. *That report shall contain all information pertaining to the programmes, in particular in terms of risk management, overall cost, annual operating cost, revenues, schedule and performance, as referred to in point (d) of Article 12(2) and as regards the functioning of the delegation agreements concluded pursuant to Articles 14(2) and 15(1). It shall include:*
- (a) an overview of the allocation and use of funds allocated to the programmes as referred to in Article 7(4);*
 - (b) information on the cost management strategy pursued by the Commission as referred to in Article 9(6);*

- (c) an assessment of intellectual property rights management;*
 - (d) an overview of the implementation of the project management systems and techniques, including risk management systems and techniques, as referred to in point (d) of Article 12(2);*
 - (e) an evaluation of the measures taken to maximise the socio-economic benefits of the programmes.*
- 2. *The Commission shall inform the European Parliament and the Council of the interim and final results of the evaluation of the procurement tenders and of the contracts with private sector entities performed by the European GNSS Agency and ESA pursuant to Article 14(7) and Article 15(3) respectively.***

It shall also inform the European Parliament and the Council:

- (a) of any re-allocation of funds between categories of expenditure performed pursuant to Article 9(3);*
- (b) of any impact on the Galileo and EGNOS programmes resulting from the application of Article 8(2).*

Article 34

Review of the implementation of this Regulation

1. By 30 June **2017**, the Commission shall present an evaluation report ***on the implementation of this Regulation*** to the European Parliament and the Council, with a view to a decision being taken on the renewal, modification or suspension of the measures taken pursuant to this Regulation concerning:

- (a) achieving the objectives of those measures, from the point of view of both results and impacts;
- (b) effectiveness of the use of resources;
- (c) European added value.

The evaluation shall also address *technological developments relating to the systems*, the scope for simplification, its internal and external coherence, the relevance of all objectives, as well as the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth. It shall take into account the results of the evaluation on the long-term impact of the previous measures.

2. The evaluation shall take into account progress made with regard to the specific objectives of the Galileo and EGNOS programmes laid down in **Article 2**(4) and (5), respectively, on the basis of **■** performance indicators ***such as***:

(a) for Galileo ***and as regards***:

(i) ***its infrastructure deployment***:

- ***number and availability of operational satellites, and number of available on-ground spare satellites versus number of planned satellites referred to in the delegation agreement***;
- ***actual availability of the elements of the ground-based infrastructure (such as ground stations, control centres) versus planned availability***;

(ii) service level:

- *service availability map per service versus service definition document;*

(iii) cost:

- *cost performance index per major cost item of the programme based on a ratio comparing actual cost with budgeted cost;*

(iv) schedule:

- *schedule performance index per major item of the programme based on comparing budgeted cost of work performed with budgeted cost of work scheduled;*

(v) *market level:*

- *market trend based on the percentage of Galileo and EGNOS receivers in the total number of receiver models included in the market report provided by the European GNSS Agency referred to in point (c) of Article 14(1).*

(b) for EGNOS *and as regards:*

(i) *its coverage extension:*

- *progress of the coverage extension versus agreed coverage extension plan;*

(ii) service level:

- *service availability index based on the number of airports with EGNOS-based approach procedures with an operational status versus the total number of airports with EGNOS-based approach procedures;*

(iii) cost:

- *cost performance index based on a ratio comparing actual cost with budgeted cost;*

(iv) schedule:

- *schedule performance index based on comparing budgeted cost of work performed with budgeted cost of work scheduled.*

3. The bodies involved in the implementation of this Regulation shall provide the Commission with the data and information necessary to enable the actions concerned to be monitored and evaluated.

CHAPTER VII

DELEGATION AND IMPLEMENTING MEASURES

Article 35

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in **Article 13(2)** shall be conferred on the Commission for an indeterminate period from 1 January 2014.
3. The delegation of power referred to in **Article 13(2)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. **It** shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified **therein**. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to *Article* 13(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of *two* months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by *two* months at the initiative of the European Parliament or the Council.

Article 36 Committee Procedure

1. The Commission shall be assisted by a Committee ■ . That Committee *shall be* a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Representatives of the European GNSS Agency and **ESA shall** be involved as observers in the work of the Committee under the conditions laid down in its rules of procedure.
5. International agreements concluded by the Union in accordance with Article 29 may provide for the involvement, **as appropriate**, of representatives of third countries or international organisations in the work of the Committee under the conditions laid down in its rules of procedure.
6. ***The Committee shall meet regularly, preferably four times per year, on a quarterly basis. The Commission shall provide a report on programme progress at each meeting. Those reports shall give a general overview of programme status and developments, in particular in terms of risk management, cost, schedule and performance. At least once a year, those reports shall include the performance indicators referred to in Article 34(2).***

CHAPTER VIII
FINAL PROVISIONS

Article 37

Repeals

1. **Regulations** (EC) No 876/2002 *and* (EC) No 683/2008 shall be repealed with effect from 1 January 2014.
2. Any measure adopted on the basis of **Regulation** (EC) No 876/2002 *or* **Regulation** (EC) No 683/2008 shall *remain in force*.

3. **■**

References to the repealed Regulation (EC) No 683/2008 shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in the Annex hereto.

Article 38

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX

Correlation table

Regulation (EC) No 683/2008	This Regulation
Article 1	Article 2
Article 2	Article 1
Article 3	Article 3
Article 4	Article 8
Article 5	Article 4
Article 6	Article 8
Article 7	Article 5
Article 8	Article 6
Article 9	Article 7
Article 10	Article 9
Article 11	Article 10
Article 12(1) Article 12(2) and (3)	Article 11 Article 12
Article 13(1), (2) and (3) Article 13(4)	Article 13 Article 16
Article 14	Article 17
Article 15	Article 27
Article 16	Article 14
Article 17	Articles 18 to 26
Article 18	Article 15
Article 19 (1) to (4) Article 19 (5)	Article 36 Article 35
Article 20	Article 31
Article 21	Article 32
Article 22	Article 33
Article 23	
Article 24	Article 38
Annex	Article 1