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*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council
on the implementation and exploitation of European satellite navigation
systems

(COM(2011)0814 – C7-0464/2011 – 2011/0392(COD))

Committee on Industry, Research and Energy

Rapporteur: Marian-Jean Marinescu

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems
(COM(2011)0814 – C7-0464/2011 – 2011/0392(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0814),
 - having regard to Article 294(2) and Article 172 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0464/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 28 March 2012¹
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 11 September 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Foreign Affairs, the Committee on Budgets and the Committee on Transport and Tourism (A7-0321/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Approves the joint statement by Parliament, the Council and the Commission annexed to this resolution;
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

PE-CONS No/YY - 2011/0392(COD)

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

of

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

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,

¹ OJ C 181, 21.6.2012, p. 179.

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 (hereinafter 'the systems'). These systems arise respectively from the Galileo and EGNOS programmes (hereinafter 'the 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 ... (not yet published in the Official Journal) and decision of the Council of.....***

- (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 in 2007 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 (hereinafter 'GNSS') *as well as those of 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 area of 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 programmes.
- (5) Since the programmes are at an advanced development stage leading to systems in an exploitation phase, a specific legal basis is required which can 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 established under the European satellite navigation programmes are infrastructures set up as trans-European networks of which the usage 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 ■ 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 also appear in the *Commission* Communication *of* 4 April 2011■ entitled 'Towards a space strategy for the European Union that benefits its citizens'■ . *The* 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.

(7a) *A growing number of economic sectors, in particular transport, telecommunications, agriculture and energy, increasingly utilise 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. These 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, both leading to new market opportunities in other sectors, productivity gains across industry and public benefits generated by reduction in pollution or improved levels of safety and security. Therefore it is important that the Union supports 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 programmes is maintained. The appropriate instrument to finance research and innovation activities relating to the development of these applications is 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)]¹ (hereinafter the "Horizon 2020 programme"). However, a very specific upstream part of research and development activities should be financed from the budget allocated to the 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 put at risk the deployment and operation of the infrastructure established under the programmes.*

¹ *OJ*

- (8) Given the increasing usage 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. The abovementioned aspects could affect the security of the Union, its Member States ***and its citizens***. Security requirements must therefore be taken into account in the design, implementation and ***exploitation*** of the infrastructures ***established under the*** █ programmes ***in accordance with standard practices***.
- (9) 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 for a fully operational system in 2020. ***The first four operational satellites should be 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.***

- (10) 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 geographic coverage of the services provided by the EGNOS system could be extended to other regions of the world, in particular territories of candidate countries, of third countries covered by the single European sky and of countries of the European Neighbourhood Policy. However, such extension to other regions of the world should not be financed by the budgetary appropriations assigned to the programmes under Council Regulation (EU) No .../2013 of ...[laying down the multiannual financial framework for the years 2014-2020]¹ and should not delay the extension of the coverage throughout the area of member States geographically located in Europe.*
- (10a) *The original design of the Galileo safety-of-life service as foreseen in 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)² has been reprofiled to ensure interoperability with other GNSS, to respond effectively to safety-of-life user needs and to reduce complexity, risks and costs of the required infrastructure.*

¹ *OJ...*

² *OJ L 196, 24.7.2008, p. 1.*

- (10b) *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 Article 2 of 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 programme¹: Member States, the Council, the Commission, the European External Action Service ("EEAS") and duly authorised Union agencies. This 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.*
- (11) In order to optimise the use of the services provided, the systems, networks and services emerging from the ■ programmes must be compatible and interoperable with one another and, insofar as possible, with other satellite navigation systems and conventional means of radio navigation *where this is laid down in an international agreement, without prejudice to the objective of strategic autonomy.*

¹ *OJ L 287, 4.11.2011, p. 1.*

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

- (12a) *Assets created or developed outside the programmes are not affected by the provisions on ownership laid down in this Regulation. However, such assets may, on occasion, be relevant to the performance of the programmes. In order to encourage the development of new technology outside the programmes, the Commission should encourage third parties to draw its attention to relevant intangible assets and should, where beneficial to the programmes, negotiate appropriate use thereof.*
- (13) 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 of 25 October 2012 on the financial rules applicable to the general budget of the Union*¹, the Member States should be able to provide additional funding to the programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements *related to their potential* particular *objectives*. Third countries and international organisations should also be able to contribute to the programmes.

¹ *OJ L 298, 26.10.2012, p. 1.*

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

- (15) The European Parliament and the Council, on the basis of **Regulation (EU) No .../2013 [laying down the multiannual financial framework for the years 2014-2020]**, ■ decided ■ to allocate a maximum sum of EUR [7.07173 billion] at current prices for the financing of activities associated with the 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 a 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 required to benefit from services capable of providing this protection ■ could be financed by the budget allocated to the programmes insofar as possible following rigorous cost management and full compliance with the abovementioned total sum established in ■ Article [x] of ■ **Regulation (EU) No .../2013 [laying down the multiannual financial framework for the years 2014-2020]**. ***Such contribution should be used only for the provision of data and services and not for the purchase of any infrastructure. This*** Regulation lays down, for the continuation of the programmes, a financial envelope constituting the prime reference, within the meaning of point [17] of the Interinstitutional Agreement of xx/yy/201z between the European Parliament, the Council and the Commission on budget cooperation and sound financial management, and within the meaning of Article [14] of ■ **Regulation (EU) No .../2013 [laying down the multiannual financial framework for the years 2014-2020]**.

- (16) The activities should be specified for which the Union budget appropriations ***assigned*** to the programmes for the period 2014-2020 under this Regulation shall be granted. These appropriations should be granted mainly for activities associated with the deployment phase of the Galileo programme, including management and monitoring activities for this phase, and activities associated with the ***exploitation*** of the system established under the Galileo programme, including actions preceding or in preparation for this phase, and the ***exploitation*** of the EGNOS system. They should also be granted for funding of certain other activities required to manage and achieve the objectives of the programmes ***including support for research and development of fundamental elements, such as Galileo chipsets and receivers, including as appropriate positioning and integrity monitoring software modules. These elements constitute the interface between the services offered by the infrastructures and downstream applications, and facilitate the development of applications throughout the different 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.***

- (17) 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 bear, in particular those relating to ■ liability arising from the *performance of the services or the Union* ownership of the systems, *especially with regard to malfunctioning of the systems*. These obligations are the subject of a specific analysis by the Commission.
- (18) It should also be noted that the budgetary resources planned under this Regulation do not cover work financed by funds allocated to the Horizon 2020 programme ■ , such as that associated with the development of applications derived from the systems. This work will help to optimise the use of the services provided in the context of the 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.*

- (19) 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 for the investments that it has made previously *and should be used to support the objectives of the programmes*. A revenue-sharing mechanism might also be provided for in contracts concluded with private sector companies.
- (20) In order to avoid the cost over-runs and delays which have affected the progress of the programmes over the last few years, 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 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. 9.*

- (21) Sound public governance of the ■ programmes assumes, firstly, that there is a strict division of *responsibilities and* tasks, in particular between the Commission, the European GNSS Agency and the European Space Agency (*ESA*), and, secondly, that the governance is progressively adapted to the operational requirements of the systems.
- (22) Given that *the Commission* represents the Union, which, in principle, provides financing for the programmes alone and owns the systems, the Commission must be responsible for the progress of the programmes and their *overall* supervision. It must 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 the *ESA*. Accordingly, in addition to the tasks associated with these general responsibilities and the other tasks incumbent upon it under this Regulation, it 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 and, in particular, Article [x] thereof.

(22a) Considering the programmatic importance of the ground-based infrastructure of the systems and its impact on their security, the determination of the location of this 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 determination of the location of such infrastructure should be made by taking into account geographical and technical limitations associated with the optimum geographical distribution of this 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.

- (23) The European GNSS Agency was established by Regulation (EU) No 912/2010¹ in order to achieve the objectives of the programmes and implement certain tasks associated with the progress of the programmes. It is an agency of the Union which, as a body within the meaning of Article 208 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 programmes and collect information on their requirements and developments on the satellite navigation market. Furthermore, it should* perform tasks which the Commission confer 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*, 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, these 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 programmes and their exploitation should be gradual and conditional to the successful completion of an appropriate hand-over review as well as to the readiness of the European GNSS Agency to take on such tasks, in order to secure the programmes' continuity. For EGNOS this hand-over should take place at the latest on 1 January 2014; for Galileo it is expected to occur in 2016.*

¹ OJ L 276, 20.10.2010, p. 1.

- (24) *For the deployment phase of the Galileo programme, the Union should conclude a delegation agreement with the ESA setting out the ESA tasks in that phase. The Commission, representing the Union, should make every effort to conclude this delegation agreement within six months after 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 the ESA. Concerning activities exclusively financed by the Union, these conditions must ensure a degree of control comparable to that required if the ESA was an Agency of the Union.
- (24a) *For the exploitation phase of the programmes, the European GNSS Agency should conclude working arrangements with the ESA setting out the latter's task in developing the future generations of the systems and in providing technical support in relation to the existing generation of systems. These arrangements should comply with Regulation (EU, Euratom) No 966/2012. They should not cover the role of the ESA as regards activities relating to research and technology, as well as 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 the Horizon 2020 programme.*

- (25) Responsibility for the progress of the programmes includes, in particular, responsibility for their security and the security of their systems and operation. Except in the case of application of 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 Union¹, which ***needs to be reviewed to reflect the*** changes in the programmes, their governance and the Lisbon Treaty, 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.
- (25a) ***In the application of this Regulation, for matters relating to security, the Commission should consult the relevant security experts of the Member States.***
- (26) Given the specific expertise of the ***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*** programmes in the field of external relations, in accordance with Council Decision 2010/427/EU of 26 July 2010 ***establishing the organisation and functioning*** of the European External Action Service² and, in particular, Article 2(2) thereof. ***The Commission should ensure that the EEAS is fully associated with its activities in implementing security-related tasks in the field of external relations. To this aim, all necessary technical support should be provided to the EEAS.***

¹ OJ L 246, 20.7.2004, p. 30.

² OJ L 201, 3.8.2010, p. 30.

(26a) *To ensure the secure circulation of information, within the scope of this Regulation, the relevant security regulations should 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 Commission Decision 2001/844/EC, ECSC, Euratom¹ and by the security rules of the Council set out in the Annexes to Council Decision 2011/292/EU². Each Member State should ensure that its national security regulations apply to all natural persons resident on its territory and all legal entities established on its territory which deal with EU classified information regarding the programmes. The security regulations of the ESA and Decision 2011/C 304/05 of the High Representative of the Union for Foreign Affairs and Security Policy³ should be considered as equivalent to 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 2011/292/EU.*

¹ OJ L 317, 3.12.2001, p. 1.

² OJ L 141, 27.5.2011, p. 17.

³ OJ C 304, 15.10.2011, p. 7.

- (26b) *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.*
- (27) In order to allocate the Union funds attributed to the programmes with a ceiling total that the Commission must not exceed, effective public procurement procedures must 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 *respective* contracting authority must make every effort to meet these requirements.

- (28) As the programmes will be, in principle, financed by the Union, public procurement under the 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 (hereinafter 'SMEs'), should be ensured. Possible abuse of dominance 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 the European industry should be preserved and promoted in all areas relating to satellite navigation in compliance with international agreements the Union adheres to. The risk of poor contract performance or of non-performance should be mitigated as much as possible. To this 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 related to the reliability of supplies and of the provision of services. In addition, in the case of purchases of goods and services of a sensitive nature, contracting authorities may subject such purchases 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 in terms of quality and costs are demonstrated, 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.

(28a) *In order to better evaluate the total cost of a product, service or work being tendered, including their long term operational cost, the total cost over the useful life-cycle 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 life-cycle costing when pursuing procurement based on the most economically advantageous tender award criterion. To this aim, the contracting authority should make sure that the methodology intended to compute the costs for a product, service or work's useful life is expressly mentioned in the contract documents or the contract notice and that it allows the verification of the accuracy of the information supplied by the tenderers.*

- (29) Satellite navigation is a ■ complex and constantly changing technology. This results in uncertainty and risk for public contracts concluded under the programmes, insofar as these contracts may involve long-term commitments to equipment or services. These 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. In this way, the contracting authority should 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 this 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 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.

- (30) It should be reiterated 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 programmes *or the services*. It should also be clarified
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 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 this system, in compliance with Article 8(1) of Decision No 243/2012/EU
of the European Parliament and of the Council of 14 March 2012 establishing a
multiannual radio spectrum policy programme*¹.

¹ *OJ L 81, 21.3.2012, p. 7.*

- (31) In view of the global nature of the systems, it is essential that the Union can enter into agreements with third countries and international organisations in the context of programmes under Article 218 TFEU, in particular to ensure their smooth implementation, *deal with certain questions relating to security and charging*, optimise 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 programmes. When preparing or implementing these agreements, the Commission may have recourse to the assistance of the *EEAS*, the *ESA* and the European GNSS Agency, within the limits of the tasks allocated to them under this Regulation.
- (32) 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 bodies involved in the public governance of the programmes may also make use of the same technical assistance in performing tasks entrusted to them under this Regulation.

- (33) *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 the protection of personal data.*
Protection of personal data and private life should be ensured under the programmes.
- (34) 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.*
- (35) It is necessary to ensure that the European Parliament and the Council are kept regularly informed about the implementation of the 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 attached to this Regulation.

- (36) 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 programmes.
- (37) 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 Council.

- (38) 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 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 powers¹.
- (39) As sound public governance requires uniform management of the programmes, faster decision-making and equal access to information, representatives of the European GNSS Agency and the ***ESA*** should be able to take part as observers in the work of the European GNSS Programmes Committee (***hereinafter "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, the ***ESA***, third countries and international organisations cannot take part in Committee voting procedures.

¹ OJ L 55, 28.2.2011, p. 13.

- (40) 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.
- (41) The Galileo Joint Undertaking created by Council Regulation (EC) No 876/2002¹ ceased its operations on 31 December 2006 and the proceedings involved in winding up the undertaking are now complete. ■ Regulation (EC) No 876/2002 should *therefore* be repealed.
- (42) Given the need to evaluate the programmes, the importance of the changes to be made to the text and in the interests of clarity and legal certainty, Regulation (EC) No 683/2008 *should* be repealed,

HAVE ADOPTED THIS REGULATION:

¹ OJ L 138, 28.5.2002, p. 1.

CHAPTER I

GENERAL PROVISIONS

Article 1 *[text from former Article 2]*

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 *[text from former Article 1]*

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 two European satellite navigation systems, namely the system established under the Galileo programme and the EGNOS system, and to ensure their security ***and interoperability***.

These programmes shall also aim to maximise the socio-economic benefits from the European satellite navigation systems, notably by promoting the use of the systems and fostering the development of applications and services based on these 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 those of the open service 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, the EEAS and, where appropriate, duly authorised Union agencies*; this service uses strong, encrypted signals. *The question of charging 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 laid down 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*:

- (a) to ensure that the signals emitted by the EGNOS system can be used to fulfil the following functions:
 - (i) 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;
 - (ii) to offer a service for the dissemination of commercial data, 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;
 - (iii) 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.
- (b) *as a priority, to provide these functions within the area of 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 belonging to the Single European Sky and of countries of 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 10. Such extension shall not delay the extension of the geographical coverage of the EGNOS system throughout the area of 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 2013*, comprising the construction and launch of the first satellites, the establishment of the first ground-based infrastructures and all the work and operations necessary to validate the system in orbit; ■
- (c) a deployment phase ■ to be completed *by 2020, comprising:*

- (i) *the construction, establishment and protection of all space-based infrastructures, 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 infrastructures, in particular of the infrastructures required to control the satellites and process the satellite radio-navigation data and of services 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, notably 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 *that* system and ensure that the programme runs smoothly.

■ This phase *shall* begin progressively between 2014 and 2015 with 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 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, notably 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 point (b) of Article 2(5).*

Article 5

Compatibility and interoperability of the systems

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

2. The systems **and** 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 this is laid down in an international agreement concluded pursuant to Article 28.***

■ Article 6

Ownership

The Union shall be the owner of all tangible and intangible assets created or developed under the programmes, to which 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 related to the programmes as effectively as possible, taking into account the need to protect and give value to the Union intellectual property rights, the interests of all stakeholders, and the necessity of harmonious development of the markets and of new technologies. To this end, it shall ensure that the contracts entered into, under the programmes, include the possibility to transfer or license intellectual property rights arising from work performed under the programmes to third parties.***

CHAPTER II
BUDGETARY CONTRIBUTION AND MECHANISMS

Article 7

Activities concerned

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

- 1a. The Union budgetary appropriations assigned to the programmes shall, in accordance with Article 10(1a), also be granted to finance activities associated with research and development of fundamental elements, such as Galileo-enabled chipsets and receivers.**
2. The Union **budgetary** appropriations assigned to the programmes **shall** also cover Commission expenditure relating to preparation, monitoring, inspection, audit and assessment activities required for their management **of the programmes** and the implementation of the objectives **referred to in Article 2(4) and (5). This 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 programmes.
3. ■ The costs of the programmes and of the different phases of the programmes *shall* be clearly identified. The Commission, in accordance with the principle of transparent management, shall inform, *on an annual basis, the European Parliament, the Council and* the Committee referred to in Article 35(1) ■ of the allocation of Union funds, *including the contingency reserve*, to each of the activities specified in paragraphs 1, *1a* and 2 *and of the use of those funds*.

Article 8

Financing of the Galileo *and EGNOS programmes*

1. ■ The Union *shall finance the activities relating to Galileo and EGNOS programmes referred to in Article 7(1), (1a) and (2), to fulfill the objectives as set out in Article 2*, in accordance with Article 10 ■ 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 *request to* provide additional funding to the Galileo *and EGNOS programmes to cover additional elements in particular cases, on condition that this does not create any financial or technical burden or any delay to 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 35(3), whether the foregoing 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 referred to in* Article 35 (1) of this Regulation.
3. Third countries and international organisations may also provide additional funding to the Galileo *and EGNOS programmes*. The *international* agreements *referred to in* Article 28 *shall* stipulate the conditions and arrangements for their involvement.
- 3a. *The additional funding referred to in paragraphs 2 and 3 shall constitute external assigned revenue in accordance with Article 21(2) of Regulation (EU, Euratom) No 966/2012.*



Article 10

Resources

1. The maximum amount allocated by the Union to implement the activities specified in Article 7(1), (1a) and (2) *and to cover risks associated with these activities* shall be **EUR [7.07173 billion]** at current prices for the period from 1 January 2014 to 31 December 2020. *This amount shall be broken down in the following categories of expenditure:*
- (a) *for the activities referred to in point (a) of Article 7(1), EUR [1.93 billion] at current prices;*
- (b) *for the activities referred to in point (b) of Article 7(1), EUR [3 billion] at current prices;*

- (c) *for the activities referred to in point (c) of Article 7(1), EUR [1.58 billion] at current prices;*
- (d) *for the activities referred to in point (ca) of Article 7(1) and in Article 7(2), EUR [0.56173 billion] at current prices.*¹

¹ Out of which a maximum of EUR 113 million (at current prices) for GSA management expenditure

- 1a. Without prejudice to any amounts allocated to the development of applications based on the systems within the Horizon 2020 programme, the budgetary appropriations assigned to the programmes, including assigned revenues, shall finance activities as referred to in Article 7(1a) up to a maximum of EUR 100 million at constant prices.*
- 1b. The Commission may re-allocate funds from one category of expenditure, as laid down in points (a) to (d) of paragraph 1, to another, up to a ceiling of 10% of the amount referred to in paragraph 1. Where the re-allocation reaches a cumulative amount greater than 10% of the amount referred to paragraph 1, the Commission shall consult the Committee referred to in Article 35(1) in accordance with the advisory procedure referred to in Article 35(2).*

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

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

- 3a. *The Commission shall manage the financial resources in paragraph 1 of this Article 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 11

Revenue generated by the 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 programmes, *and in particular to the objective as referred to in Article 2(1)*. If the income proves to be more than 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 PROGRAMMES

Article 12

Principles for governance of the programmes

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

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

- (b) *sincere cooperation between the bodies 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 bodies involved, within their fields of responsibility, with respect to the objectives of the 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 programmes, in the light of the specific requirements and with the support of experts in the field.*

Article 13

Commission's role

1. The Commission ***shall have the overall responsibility*** for the █ programmes. It ***shall manage*** the funds allocated █ under this Regulation and ***oversee*** the implementation of all programme activities, ***in particular with respect to the cost, schedule and performance***.
2. In addition to the ***overall responsibility*** referred to in paragraph 1 and ***the specific tasks*** referred to in █ other provisions of this Regulation, the ***Commission shall***:
 - (a) █ ensure a clear division of tasks between the various bodies involved in the programmes and to this end ***it shall*** allocate the tasks referred to respectively in ***Article 15(1a)*** and ***Article 16***, in particular by means of delegation agreements, to the European GNSS Agency and the ***ESA***;
 - (b) ***ensure the timely implementation of the 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 in 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 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 12;*
- (da) *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 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 programmes
[unmarked text from point (c) of COM proposal];
 - (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* *[unmarked text from point (a) of COM proposal]*;
 - (ca) *determine technical and operational specifications necessary to fulfill 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 35(3).

Article 14

Security of *the* systems and their operation

1. *The Commission shall ensure the security of the 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 these requirements and standards will support the successful progress of the programmes, in particular in terms of costs, risk management and timetable;*
 - (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 15 and 17 of this Regulation and Article 8 of Decision No 1104/2011/EU ■ , the Commission *shall adopt* delegated acts in accordance with Article 34, *laying down* the *high level objectives* necessary to ensure the security of the *programmes* referred to in paragraph 1. ■

2a. *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 35(3).*

3. The *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 15

The role of the European GNSS Agency

- 1 ■ The European GNSS Agency ■ in accordance with the guidelines laid down by the Commission, *shall perform the following tasks*:
 - (a) *ensure*, with regard to the security of the programmes, and without prejudice to Articles 14 and 17 ■ :
 - (i) *through its Security Accreditation Board*, 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 14 of this Regulation* and the instructions provided under Joint Action 2004/552/CFSP referred to in *Article 17*;
- (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 phase and exploitation phase of the programmes*, to the *promotion and marketing of 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 adoption by user community of the services referred to in Article 2(4) and (5), comprising in particular relevant actions relating to standardisation and certification.*

1a. *The European GNSS Agency shall also perform other ■ tasks relating to the implementation of the 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 60(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) *contribution to the definition of service evolutions and development and deployment activities for the evolution and future generations of the systems, including procurement;*

- (c) *promoting the development of applications and services based on the systems, as well as raising awareness of these 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.*

1b. *The delegation agreements referred to in paragraph 1a 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(7) and Article 60 of Regulation (EU, Euratom) No 966/2012. In addition, they 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, time and performance as well as the rules regarding ownership of all tangible and intangible assets.*

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

- 1c. The European GNSS Agency shall enter into the working arrangements with the ESA that are necessary for the fulfillment of their respective tasks under this Regulation for the exploitation phase of the programmes. The Commission shall inform the European Parliament, the Council and the Committee referred to in Article 35(1) 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.*

2. In addition to the tasks referred to in *paragraphs 1 and 1a* 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 (da) of Article 13(2)*.
3. The Committee referred to in Article 35(1) shall be consulted on the delegation decision referred to in *paragraph 1a* of this Article, in accordance with the *advisory* procedure referred to in Article 35(2). The *European Parliament the Council and the* Committee shall be informed *in advance* of the delegation agreements to be concluded by the Union, represented by the Commission and the European GNSS Agency.
- 3a. *The Commission shall inform the European Parliament, the Council and the Committee referred to in Article 35(1) of the interim and end results of the evaluation of any procurement tenders and of any contracts with private sector entities, including the information related to subcontracting.*

Article 16

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 *without delay* conclude a [] delegation agreement with the ESA detailing the latter's tasks, in particular as regards the design, development and procurement of the system. The agreement with the ESA shall be concluded on the basis of a delegation decision adopted by the Commission in accordance with Article 61 of Regulation (EU, Euratom) No 966/2012.***

(a) The delegation agreement shall, insofar as necessary for the tasks and budget implementation delegated under paragraph 1, lay down the general conditions for the management of the funds entrusted to the *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, time and performance as well as*** the rules regarding ownership of all tangible and intangible *assets*.

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

(b) The Committee referred to in Article 35(1) 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 35(2). The ***European Parliament, the Council and the*** Committee shall be informed ***in advance*** of the [] delegation agreement to be concluded by the ***Union, represented by the*** Commission and the *ESA*.

(c) ***The Commission shall inform the European Parliament, the Council and the***

Committee referred to in Article 35(1) of the interim and end results of the evaluation of the procurement tenders and of the contracts with private sector entities to be concluded by *ESA*, *including the information related to subcontracting*.

- 4a. For the exploitation phase of the programmes as referred to in Article 3(d) and Article 4, the working arrangements between the European GNSS Agency and the ESA , referred to in Article 15(1c) shall address the ESA's role during this 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.*

These arrangements shall comply with Regulation (EU, Euratom) No 966/2012 and with the measures laid down by the Commission in accordance with Article 13(3).

These arrangements and any changes thereto shall be notified to the European Parliament, the Council and the Committee referred to in Article 35(1).

- 4b. Without prejudice to the delegation agreement and the working arrangements referred to in paragraphs 1 and 4a, the Commission may request from the 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 17
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 18
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 2011/292/EU¹;

¹ OJ L 141, 27.5.2011, p. 17.

- (b) Member States shall ***without delay*** inform the Commission █ of the national security regulation as referred to in paragraph 1;
- (c) natural persons resident in third countries and legal entities established in third countries may deal with ***EU*** classified information regarding the programmes only where they are subject, in those countries, to a security regulation ensuring a degree of protection at least equivalent to that guaranteed 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 2011/292/EU. █ The equivalence of the security regulation applied in a third country ***or international organisation shall be defined*** in an ***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 12 of Decision 2011/292/EU;***

- (d) *without prejudice to Article 12 of Decision 2011/292/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 and private legal entity, 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 measure 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 programmes

Article 19

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, and in particular 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, shall apply to the deployment phase of the Galileo programme and the exploitation phases of the programmes ■ .

Article 20
Specific objectives

During the procurement, 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 the recourse to sub-contracting by the tenderers*;
- (b) to avoid possible abuse of dominance 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 programmes, while ensuring that competitive tendering rules are complied with;
- (ca) *to pursue multiple sourcing wherever appropriate in order to ensure better overall control of the programmes, their costs and time-schedule*;
- (cb) *to take into account wherever appropriate the total cost over the useful life-cycle 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 programmes

Article 21

Establishing fair competition conditions

The contracting authority ***shall*** take the appropriate measures to ensure fair competition conditions when 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 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 fair competition, equal treatment and confidentiality of data collected about undertakings, their business relations and cost structure. In this context, these measures shall take into account the nature and particulars of the intended contract.

Article 21a
Security of information

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

Article 21b
Reliability of supply

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

Article 22
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 is 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 refer to the specific features of conditional stage-payment contracts. In particular, they specify the subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for provision of supplies and services at each stage.
3. The fixed stage obligations must be part of a consistent whole; the same is true for the obligations under each conditional stage, taking into account the obligations under the previous stages.
4. 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 belatedly or is not confirmed, the contractor may benefit, if the contract so provides and under the conditions laid down therein, from a tideover allowance or a non-execution allowance.

- 4a. *Where, with regard to a particular stage, the contracting authority finds that works and services agreed for that stage have not been realised, it may claim damages and terminate the contract, if the contract so provides and under the conditions laid down therein.*

Article 23

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, use of 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 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 only be exceeded 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 evaluation of the plausibility of the estimated overall budget, of the reimbursable costs, of the mechanisms for determining these 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 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 this conversion.
5. The costs declared by the contractor during performance of a full or partial cost-reimbursement contract are only eligible if *they*:
- (a) ■ are actually incurred during the duration of the contract, with the exception of costs for equipment, infrastructures and intangible fixed assets necessary for performance of the contract which may be deemed eligible for 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 performance of the contract;
- (d) ■ result from the performance of the contract and are attributable to this;
- (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 legislation;
- (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) it shall determine the most realistic possible ceiling price, while providing the necessary flexibility to account for technical difficulties;
 - (b) it shall convert 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 this reason, it shall determine the conversion parameters to convert a contract concluded on a cost-reimbursement basis to a firm fixed-price contract;

- (c) it shall implement monitoring and inspection measures which provide, in particular, an estimated cost forecast system;
- (d) it shall determine suitable principles, tools and procedures for the implementation of contracts, in particular for identifying and checking the eligibility of costs declared by the contractor or its subcontractors during performance of the contract, and for entering amendments to the contract;
- (e) it shall check 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 performance of the contract, it shall ensure continuously the effectiveness of the principles, tools and procedures referred to in *point (d)*.

Article 24
Amendments

The *contracting authority and the contractors* may *change the contract* by an amendment on condition that this 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 25
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.*** ■
- 1a. ***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. In defining such percentages the contracting authority shall take into account that such percentages are in proportion to the objective and value of the contract, the nature of the sector of activity concerned, and in particular, the competitive conditions and industrial potential observed.***

- 1b. If the tenderer indicates in its tender that it intends not to sub-contract any share of the contract or to subcontract a share inferior to the minimum of the range referred to in paragraph 1a, it shall provide the reasons therefore to the contracting authority. The contracting authority shall submit this information to the Commission.***
2. 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 this rejection in writing, which may only be based on the criteria used for selection of tenderers for the main contract.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Article 26

Programming

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

These implementing measures shall be adopted in accordance with the *examination* procedure referred to in Article 35(3).

Article 27

Member States' action

II The Member States shall take all necessary measures *to ensure the good functioning of the 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 measures which could be detrimental to the programmes or the services provided through their exploitation, in particular concerning the continuity of the operation of the infrastructures.*

¹ OJ L 345, 23.12.2008, p. 75.

Article 28

International agreements

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

Article 29

Technical assistance

In order to *carry out* the technical tasks referred to in Article 13(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 programmes.

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

Article 30

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 guarantees 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 legislation on personal data protection, in particular 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***¹ and 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***².

¹ OJ L 8, ***12.1.2001***, p. 1.

² OJ L 281, ***23.11.1995***, p. 31.

Article 31

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, proportional 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 on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in 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*¹ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the European 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 international organisations, grant agreements, grant decisions and contracts resulting from the application of this Regulation shall expressly entitle the Commission, the Court of Auditors and OLAF to conduct these audits and these on-the-spot checks and inspections.

¹ OJ L 292, *15.11.1996*, p. 2.

Article 32

Information to the European Parliament and to the Council

- 1.** 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 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 13(2) and as regards the functioning of the delegation agreements concluded pursuant to Articles 15(1a) and 16(1). It shall include:***
 - (a) an overview of the allocation and use of funds allocated to the programmes as referred to in Article 7(3);***
 - (b) information on the cost management strategy pursued by the Commission as referred to in Article 10(3a);***

- (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 13(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 on interim and end results of the evaluation of the procurement tenders of the contracts with private entities performed by the European GNSS Agency and the ESA pursuant to Article 15(3a) and point (c) of Article 16(1) respectively.*

It shall also inform them:

- (a) of any re-allocation of funds between categories of expenditure performed pursuant to Article 10(1b);*
- (b) of any impact on the Galileo and EGNOS programmes resulting from the application of Article 8(2).*

Article 33

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 these 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 related 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 evaluation results on the long-term impact of the previous measures.

2. The evaluation will take into account progress made with regard to the objectives of the Galileo and EGNOS programmes laid down in **Article 2**(4) and (5) 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 satellites planned 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 for each major cost item of the programme based on a ratio comparing actual cost with budgeted cost;*

(iv) *schedule:*

- *schedule performance index per each 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 15(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 34

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 14(2)** shall be conferred on the Commission for an indeterminate period from 1 January 2014.
3. The delegation of power referred to in **Article 14(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** 14(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 35

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 the **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 28 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.
- 5a. *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. These reports shall give a general overview on programme status and developments, in particular in terms of risk management, cost, schedule and performance. At least once a year, these reports shall include the performance indicators referred to in Article 33(2).***

CHAPTER VIII
FINAL PROVISIONS

Article 36

Repeals

1. **Regulations** (EC) No [876/2002 *and*] (EC) No 683/2008 shall be repealed with effect from 1 January 2014.
- 1a. Any measure adopted on the basis of **Regulations** (EC) No [876/2002 *or*] (EC) No 683/2008 shall *remain valid*.

2.

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 37

Entry into force

This Regulation shall enter into force on the twentieth day following 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 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 8
Article 5	Article 4
Article 6	Article 9
Article 7	Article 5
Article 8	Article 6
Article 9	Article 7
Article 10	Article 10
Article 11	Article 11
Article 12(1)	Article 12
Article 12(2) and (3)	Article 13
Article 13(1)	Article 13
Article 13(2) and (3)	Article 14
Article 13(4)	Article 17
Article 14	Article 18
Article 15	Article 26
Article 16	Article 15
Article 17	Articles 19 to 25
Article 18	Article 16
Article 19	Article 35
Article 20	Article 30
Article 21	Article 31
Article 22	Article 32
Article 23	
Article 24	Article 37
Annex	Article 1

ANNEX TO THE LEGISLATIVE RESOLUTION

Joint declaration

by the European Parliament, the Council and the European Commission

on the

GALILEO INTERINSTITUTIONAL PANEL (GIP)

1. In view of the importance, uniqueness and complexity of the European GNSS programmes, the Union ownership of systems resulting from the programmes, the full financing of the Union budget of the programmes for the period 2014-2020, the European Parliament, the Council, and the European Commission recognise the need for close cooperation of the three institutions.

2. A Galileo Interinstitutional Panel (GIP) will meet with the objective to facilitate each institution exercising its respective responsibility. To this end, the GIP will be set up in order to follow closely:

(a) the progress on the implementation of the European GNSS programmes, in particular with regard to the implementation of the procurement and the contract agreements, in particular with regard to the ESA;

(b) the International Agreements with third countries without prejudice to the provisions of Article 218 of the Treaty on the Functioning of the European Union;

(c) the preparation of satellite navigation markets;

(d) the effectiveness of the governance arrangements; and

(e) the annual review of the work programme.

3. In accordance with existing rules, the GIP will respect the need for discretion in particular in view of the commercial-in-confidence and sensitive nature of certain data.

4. The Commission will take account of the views expressed by the GIP.

5. The GIP will be composed of seven representatives, of which:

- three from the Council,

- three from the EP,

- one from the Commission,

and will meet on a regular basis (in principle four times per year).

6. The GIP does not affect the established responsibilities or interinstitutional relationships.

EXPLANATORY STATEMENT

European Satellite Navigation policy will provide the Union with two satellite navigation systems, a system established under the Galileo programme and the EGNOS system. Global Navigation Satellite System (GNSS) technologies are fundamental to improving efficiency in many sectors of the economy and in many areas of citizens' daily life, through their ability to provide highly reliable accurate measurements of position, velocity and time.

The Galileo programme will not be fully operational in 2013 as planned. As the 2008 GNSS Regulation does not lay down the financing and governance framework for Galileo and EGNOS programmes after 2013, a new legal basis is needed for the systems to be operational, maintained and managed in the long term.

The rapporteur strongly supports the objective of the Galileo programme to create the first global satellite navigation system (GNSS) built under civilian control, completely independent of other existing systems, interoperable with other different navigation systems and meant to provide uninterrupted GNSS services.

Satellite navigation is already essential for European transport and industry and it is important not to be dependent anymore on the American GPS and Russian GLONASS for positioning, navigation and time. European GNSS services must be provided on European infrastructure, which does not depend on the priorities of the US, Russian nor Chinese military for its reliability.

Budgetary contribution and mechanisms

The Commission budget proposal for this GNSS Regulation foresees an average of 1 billion euros per year (at 2011 prices) for the seven years covering the period 2014-2020.

The budget breakdown proposed by the rapporteur is made along the different segments of the programmes:

- activities relating to the space and replenishment segments of the Galileo programme, including but not limited to deployment of the reference constellation together with the necessary spares, the associated launches, replenishment due to obsolescence and development of new a generation of satellites.
- activities relating to the ground and service provision segments of the Galileo programme, including but not limited to development of management capacity from 18 to 24 satellites, re-profiling of the Safety of Life and the Commercial Service, site hosting deployment and exploitation, exploitation of stations, deployment and exploitation of Service Facilities Centres (including the performance centre, Geodesy and Timing), the service centre, site maintenance, centre-specific staff, Space segment maintenance, telecommunication network exploitation and system support; activities relating to the maximisation of the socio-economic benefits of the programme.
- activities associated with the exploitation of the EGNOS system including but not limited to the exploitation contract for the operation and maintenance of the system, technology update and obsolescence taking into account various versions

of the system, exploitation contract for the transponders, and extension of the geographic coverage of the services; activities relating to the maximisation of the socio-economic benefits of the programme.

- activities associated with the management of the programmes including but not limited to design and procurement, system prime, security centres management, exploitation management and administrative costs.

The Commission, acting as fund manager, should have the necessary flexibility to be able to re-allocate funds from one segment to another, up to a ceiling of 10% of the total amount.

The original budget breakdown did not include activities for maximizing the socio-economic benefits of the programme in downstream application markets since the launch of first Galileo services in 2014.

The applications support needed is of around 300 million euros (around 150 million euros for research and development and around 150 million euros for the promotion of the use of applications and the adoption of EGNSS technology across the EU territory). The budget for research and development should be identified within Horizon2020.

Governance of the Programmes

The Commission's role

The Commission must manage the funds allocated to the programmes, and supervise the implementation of all activities of the programmes, including those delegated to both the European GNSS Agency (GSA) and the European Space Agency (ESA).

The roles of the Commission, the GSA and ESA should be clear and mutually exclusive in the interests of efficiency and accountability. It should avoid replicating capabilities already available in the Commission's services, ESA or GSA. The Commission should focus on the supervision of the Programmes, deciding the main programme objectives, defining the financial and procurement rules, allocating the main financial resources, defining and controlling the management structure.

The Commission should rely on GSA, acting as the GNSS exploitation for interfacing with the users, delivering the services, operating the infrastructure, developing the applications and being actively responsible for the introduction of GNSS in a variety of fields.

The regulation should allow for a progressive implementation to be initiated starting with immediate and urgent activities (operations of EGNOS and of the Galileo Security Centres) before transferring other programmatic and technical tasks different by nature.

The Commission should rely on ESA, acting as the space agency for the European Union, and delegate to ESA the responsibility (technical and contractual) for designing the systems, proposing and implementing research and technology, development, deployment activities, and providing technical support to the GSA on infrastructure related issues. The structure and competence are already in place in ESA to perform these tasks.

The GSA's role

The GSA is the GNSS exploitation entity which shall focus on activities relating to the

maximisation of the socio-economic benefits of the programmes. The Commission, acting as fund manager, should be able to re-allocate appropriations set aside to cover deployment and exploitation risks (satellite failures, launch risks, delays, unforeseen events relating to exploitation) that are not used for that purpose in order to cover activities relating to the maximisation of the socio-economic benefits of the programmes.

GSA shall:

- ensure, security certification through its Security Accreditation Board, and the operation of the Galileo security centre;
- perform promotion and marketing of the services including by carrying out market analysis, collecting information on user needs and developments of the satellite navigation market, establishing close contacts with users and potential users of EGNSS.

The activities to promote the use of applications and of the adoption of European GNSS technology should be covered within this regulation and consists of the following tasks assigned to European GNSS Agency:

- draw up and manage a plan, based on the priorities of the different application markets, establishing an adoption roadmap by area of application;
- identify areas where the use of GNSS could provide socio-economic benefits and present to the Commission guidelines for regulatory measures that could be introduced or adapted at EU level to take advantage of those benefits;
- perform applications' testing and certification when supporting the EU interest;
- managing dedicated EGNSS R&D funds aimed at the development and use of applications and services for the satellite navigation market, with a particular focus on SMEs, including with the resources made available for this purpose under Horizon 2020;
- perform activities aiming at the adoption of EGNSS applications across the EU territory, identifying and connecting European centres of excellence specialised in specific sectors of EGNSS applications and services, manage the network of centers and draw on the expertise of public authorities, universities, research centres, user communities and industry with a particular focus on SMEs.

The ESA's role:

ESA shall:

- define and propose the technical solutions, which respond to programme needs;
- manage development of the infrastructure according to programme objectives;
- negotiate and manage the contracts with the firms supplying the infrastructures;
- evaluate the other international systems;
- propose and carry out the evolution and preparatory work for the future;

- maintain and develop European technical competence, in particular through research and technology activities;
- provide its technical support and its opinion as architect to the exploiting entity, for conducting operational activities.

The European Space Agency shall cooperate with the European GNSS Agency on the basis of working arrangements, including full delegation from the European GNSS Agency to the European Space Agency.

Those working arrangements shall in particular address the European Space Agency's role in:

- conception, design, monitoring and validation in the framework of the development of future generations of the systems;
- technical support in the framework of operation and maintenance of the existing generation of the systems.

Concluding remarks:

Regarding EGNOS, the rapporteur considers that absolute priority should be given to ensuring that the territories of the Member States are covered. EGNOS shall be provided as soon as possible throughout all EU. It would also be appropriate to extend coverage to territories of candidate countries and third countries covered by the Single European Sky and the European Neighborhood Policy.

The Impact Assessment Executive Summary accompanying this Proposal for Regulation states that 6%-7% of European GDP-27, i.e. 800 billion euros, already depends on the American GPS system. The GNSS programmes, as proposed, will generate 68.63 billion euros (at current prices according to the Impact Assessment Guidelines) of net benefits to the Union during the system lifecycle of 2014-2034. That's why a business plan from the European GNSS Agency (GSA) to grow this market is essential.

The success of Galileo and EGNOS will be measured by the number and the satisfaction of its users. It is essential to put in place an exploitation structure, with a permanent and structured interface with users, responsible for service quality and continuity.

The rapporteur emphasizes that delays, cost escalation and lost benefits should be avoided. It is, therefore, essential to have a good governance and that the value of the European GNSS is promoted and communicated to the market.

10.7.2012

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems
(COM(2011)0814 – C7-0464/2011 – 2011/0392(COD))

Rapporteur: Sampo Terho

SHORT JUSTIFICATION

The European satellite navigation systems - established under the Galileo and EGNOS programmes - are flagship projects of the European Union. They are managed by the Union and their purpose is to guarantee strategic independence and autonomy both to the Union and its Member States, in particular in the field of global navigation and positioning.

The current European dependence on the United States based GPS system has been a basic argument for the Galileo project since the beginning. In peaceful times and under normal conditions this dependence is less problematic, but in times of crisis and emergency situations it is vital that the security and other personnel have a reliable system at their disposal governed by Europeans, thus giving added value regarding the crisis management of the Union and its Member States.

The Galileo programme has political, operational, industrial and technological aspects, and moreover, security and defence potential. The essential security purposes and benefits of the Galileo system are in particular positioning and navigation, search and rescue support services (SAR) and CSDP missions and operations. The rapporteur considers that the last-mentioned should be tackled more profoundly in the European Commission's proposal, and he thus believes that the dual-use aspect of this capability should be taken into consideration.

In addition, the Galileo programme has been estimated to cost about 20 billion Euros all in all, of which much has already been spent. Therefore, the rapporteur accordingly advises the Union and the Member States to use of the full potential of the system. The use of the security potential of the system should be optional for the Member States, and they should decide whether or not to use the system. Some may decide not to do so, but many Member States already have indicated that they are interested in utilising this aspect of the system. It should be the legislator's duty to provide them with guidance and the possibility to do so. However, when it comes to the Union and its programmes, the rapporteur is of the view that the full use

of Galileo's capabilities and potential should be mandatory. The rapporteur supports transparency within this issue, as it is evident that the European satellite navigation systems will be used by European security forces including military.

The Galileo system should be controlled by civil administration. However, the rapporteur deems it convenient to increase the civil-military synergies and to improve the coordination between the different programmes. The final question remains how the system should be managed in the best manner so that the independence is guaranteed in crisis and emergency situations. Herein, it is important to note the experience and lessons learned from e.g. the Libya conflict regarding the future satellite navigation systems. Comprehensive benefits will be gained by shared administration and controlling. In this light, the possibility to connect the satellite navigation systems on the expertise level to the European External Action Service should be considered in line with the role and mandate of this Service.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(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. The system established under the Galileo programme **is completely independent** of other existing or potential systems.

Amendment

(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 European actors, states and agencies.*** The system established under the Galileo programme ***functions independently*** of other existing or potential systems, ***thus contributing to the strategic autonomy of the Union, as emphasised in 2007 by the European Parliament and the Council.***

Amendment 2

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The Union recognises that, by definition, no space policy can be undertaken in isolation from other relevant actors in space. International co-operation is a fundamental part of the Galileo programme and the Commission, working closely with the European Space Agency (ESA) and the European External Action Service (EEAS), should continue to lead on space dialogues with strategic partners and emerging space powers.

Amendment 3

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The Council, in its Conclusions on Common Security and Defence Policy of 1 December 2011, emphasised the growing demand for the European Union to become a more capable, coherent and strategic global actor, reiterated the continuing need for a comprehensive approach and underlined the importance of the common security and defence policy (CSDP) which needs to be underpinned by sufficient and adequate capabilities – in terms of personnel, assets and intelligence analytical support. Moreover, the Council welcomed Member States' commitments in specific concrete projects, facilitated by the European Defence Agency (EDA) like in the fields of: Intelligence, Surveillance and Reconnaissance including Space Situational Awareness and Military Satellite Communications, and stated that it looked forward to the concrete definition of these projects as soon as possible, as well as the development of other pooling projects on the basis of

existing initiatives, such as: maritime surveillance and Satellite Communication.

Amendment 4

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) The Council, in its 7th Space Council Resolution of 25 November 2010, invited the European Commission, the European Council, assisted by EDA, together with Member States and the European Space Agency (ESA), to explore ways to support current and future capability needs for crisis management through cost-effective access to robust, secure and reactive space assets and services (integrating global satellite communications, Earth observation, positioning and timing), taking full advantage of dual-use synergies as appropriate. Accordingly, it welcomed the growing support of the EU Satellite Centre (EUSC) to EU missions and operations and recommended the setting up of appropriate arrangements to improve the effectiveness of EUSC service provision to EU missions and operations, and to facilitate access to national programme imagery. In addition, the Council acknowledged the increasing dependence of the European economy and policies, in particular the Common Foreign and Security Policy, on space assets and the critical nature of space infrastructures for autonomous European decision-making, and the need to define and introduce appropriate measures to monitor and protect these assets, including at the outset of their development.

Amendment 5

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) Since the programmes are at an advanced development stage leading to systems in an exploitation phase, a specific legal basis is required which can meet their needs, particularly in terms of governance and to satisfy the requirement for sound financial management.

Amendment

(5) Since the programmes are at an advanced development stage leading to systems in an exploitation phase, a specific legal basis is required which can meet their needs, particularly in terms of governance, ***mutual ownership and utilisation, as well as security of the systems, and*** to satisfy the requirement for sound financial management.

Amendment 6

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) The systems established under the European satellite navigation programmes are infrastructures set up as trans-European networks of which the usage extends well beyond the national boundaries of the Member States. Furthermore, the services offered through these systems contribute, in particular, to the development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

Amendment

(6) The systems established under the European satellite navigation programmes are infrastructures set up as trans-European networks of which the usage extends well beyond the national boundaries of the Member States. Furthermore, the services offered through these systems contribute, in particular, to the development of trans-European networks in the areas of transport, telecommunications and energy infrastructures. ***The use of the services by the Union and the Member States in other areas such as police, border management, crisis management and defence should be encouraged, thus giving greater impetus to civil-military cooperation.***

Amendment 7

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) Given the increasing usage 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. In addition, due to their strategic aspect, satellite navigation systems are sensitive infrastructures, that could be susceptible to malicious use. The abovementioned aspects could affect the security of the Union and its Member States. Security requirements must therefore be taken into account in the design, implementation and operation of the infrastructures emerging from the Galileo and EGNOS programmes.

Amendment

(8) Given the increasing usage 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. ***Both the Galileo and EGNOS programmes contribute considerably to the strategic independence and autonomy of the Union. In addition*** due to ***their*** strategic aspect, satellite navigation systems are sensitive infrastructures, that could be susceptible to malicious use ***by state and non- state actors***. The abovementioned aspects could affect the security of the Union, its Member States ***and its citizens***. Security requirements must therefore be taken into account in the design, implementation and operation of the infrastructures emerging from the Galileo and EGNOS programmes, ***in accordance with standard practices and agreed upon by all operators of the system. Capabilities at Member State level, as well as in the framework of the Common Security and Defence Policy (CSDP), should be developed in order to prevent spoofing and/or jamming attacks against the encrypted public regulated service (PRS) signal and to ensure the security of critical infrastructure. The Commission and the Council should therefore create the appropriate procedural security conditions to ensure that the open service can be restricted geographically or switched off in order to prevent any malicious use.***

Amendment 8

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) In order to optimise the use of the services provided, the systems, networks and services emerging from the Galileo and EGNOS programmes must be compatible and interoperable with one another and, insofar as possible, with other satellite navigation systems and conventional means of radio navigation.

Amendment

(11) In order to optimise the use of the services provided, the systems, networks and services emerging from the Galileo and EGNOS programmes must be compatible and interoperable with one another and, insofar as possible, with other satellite navigation systems and conventional means of radio navigation.
Interoperability should be in line with the objective of strategic independence of the systems.

Amendment 9

**Proposal for a regulation
Recital 12**

Text proposed by the Commission

(12) Since the Union is responsible, in principle, for financing the programmes in full, provision should be made for it to own all tangible and intangible assets created or developed under these programmes. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements with existing owners should be made, particularly for essential elements of the infrastructures and their security. In order to facilitate adoption of satellite navigation by the markets, there is a need to ensure that third parties can make optimum use in particular of the intellectual property rights arising from the programmes which belong to the Union, in particular at social and economic level.

Amendment

(12) Since the Union is responsible, in principle, for financing the programmes in full, ***the governance and operation of the European GNSS should remain under civilian control within the Union and*** provision should be made for it to own all tangible and intangible assets created or developed under these programmes. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements with existing owners should be made, particularly for essential elements of the infrastructures and their security. In order to facilitate adoption of satellite navigation by the markets, there is a need to ensure that third parties can make optimum use in particular of the intellectual property rights arising from the programmes which belong to the Union, in particular at social and economic level.

Amendment 10

**Proposal for a regulation
Recital 12 a (new)**

(12a) Galileo is the first complete civil positioning system. However, certain services of Galileo, particularly PRS, are of a dual-use nature and can also be used for security defence purposes and applications within the Member States and support CSDP missions, including crisis-management and humanitarian operations. Galileo will be of key importance in the event of implementation of Union solidarity and mutual-assistance clauses, as provided for by Article 222 of the Treaty on the Functioning of the European Union and Article 42 (7) of the Treaty on European Union, respectively.

Amendment 11

Proposal for a regulation Recital 13

(13) The deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme should, in principle, be entirely financed by the Union. However in accordance with Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the financial regulation applicable to the general budget of the European Communities, the Member States should be able to provide additional funding to the programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements requested by them, e.g. concerning the system architecture or particular security needs. Third countries and international organisations should also be able to contribute to the programmes.

(13) The deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme should, in principle, be entirely financed by the Union. However in accordance with *Council* Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the *Financial Regulation* applicable to the general budget of the European Communities, the Member States should be able to provide additional funding to the programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements requested by them, e.g. concerning the system architecture or particular security needs. Third countries and international organisations should also be able to contribute to the programmes, ***to the extent that the independence of the global navigation satellite system of the***

Union is not affected.

Amendment 12

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) 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 bear, in particular those relating to non-contractual liability arising from the public ownership of the systems, especially with regard to force majeure and catastrophic failure. These obligations are the subject of a specific analysis by the Commission.

Amendment

(17) 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 bear, in particular those relating to non-contractual liability arising from the public ownership of the systems, especially with regard to force majeure and catastrophic failure. These obligations are the subject of a specific analysis by the Commission ***and will be communicated to the Council and the European Parliament***.

Amendment 13

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) Responsibility for the progress of the programmes includes, in particular, responsibility for their security and the security of their systems and operation. Except in the case of application of 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, which ***could*** be adapted ***if necessary*** to changes in the programmes, their governance and the Lisbon Treaty, 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

Amendment

(25) Responsibility for the progress of the programmes includes, in particular, responsibility for their security and the security of their systems and operation. Except in the case of application of 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, which ***must necessarily*** be adapted to changes in the programmes, their governance and the Lisbon Treaty, 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.

Amendment 14
Proposal for a regulation
Recital 25 a (new)

Text proposed by the Commission

establish mechanisms to ensure suitable coordination between the various entities responsible for security, ***under the authority of the High Representative of the Union for Foreign Affairs and Security Policy.***

Amendment

(25a) It is of utmost importance to review Joint Action 2004/552/CFSP, as it does not take into account the entry into force of the Lisbon Treaty and specifically the appointment of the High Representative of the Union for Foreign Affairs and Security Policy and the establishment of the European External Action Service (EEAS). Joint Action 2004/552/CFSP describes the exceptional and urgent cases of threats to the Union or a Member State arising from the operation or use of the system, or in the event of a threat to the operation of the system, in particular as a result of an international crisis. There is a need to clarify the role of the High Representative of the Union for Foreign Affairs and Security Policy pursuant to the urgency procedure according to Articles 3 and 4 of Joint Action 2004/552/CFSP on the rules, procedures and measures to be taken in the event of a threat to the security of the Union or a Member State, notably where PRS receivers are lost, misused or compromised. An amendment of Joint Action 2004/552/CFSP should also take into account the expertise of the EEAS in the field of early warning, situational awareness, security and defence.

Amendment 15

Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Exports outside the Union of dual-use equipment or technology and software relating to PRS use and relating to the development of and manufacturing for the PRS, regardless of whether that equipment, software or technology is listed in Annex I to Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items¹, should be restricted to those third countries which are duly authorised to access the PRS under an international agreement with the Union. The Union list of controlled items is based on control lists adopted by international export control regimes, such as the Wassenaar Arrangement, the Australia Group (AG), and the Missile Technology Control Regime (MTCR).

¹ OJ L 134, 29.5.2009, p. 1.

Amendment 16

Proposal for a regulation
Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) The services offered by Public Regulated Service (PRS) might play an important role for different weapon systems, especially concerning navigation and guidance. It is therefore important that the Commission, the Council, the European External Action Service (EEAS) and the Member States act in accordance with the 1967 Outer Space Treaty and that Member States and the EEAS increase their efforts regarding the

possible revision of the international legal framework or, alternatively, regarding a new treaty or code which takes into account the technological progress since the 1960s and effectively prevents an arms race in outer space. The Union should furthermore strengthen the legal framework created by the Outer Space Treaty to safeguard a peaceful and secure functioning of space infrastructure. The Union should therefore strengthen its capabilities to achieve space situational awareness together with its partners in the framework of a multilateral space surveillance system.

Amendment 17

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) In view of the global nature of the systems, it is essential that the Union can enter into agreements with third countries and international organisations in the context of programmes under Article 218 of the Treaty on the Functioning of the European Union, in particular to ensure their smooth implementation, optimise 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 programmes. When preparing or implementing these agreements, the Commission may have recourse to the assistance of the European External Action Service, the European Space Agency and the European GNSS Agency, within the limits of the tasks allocated to them under this Regulation.

Amendment

(31) In view of the global nature of the systems, it is essential that the Union can enter into agreements with third countries and international organisations in the context of programmes under Article 218 of the Treaty on the Functioning of the European Union, in particular to ensure their smooth implementation, optimise services provided to citizens of the Union, ***ensure the full security of the system, regulate the revenue regime*** and meet the needs of third countries and international organisations. It is also useful, where necessary, to adapt existing agreements to changes in the programmes. When preparing or implementing these agreements, the Commission may have recourse to the assistance of the European External Action Service, the European Space Agency and the European GNSS Agency, within the limits of the tasks allocated to them under this Regulation ***duly taking into account the rights of the European Parliament under Article 218. In particular, these agreements should be***

in accordance with the security and defence policy interests of the Union and the Member States. It should equally take into account the sensitive and strategic nature of some of the system's services such as PRS, thus ensuring full compliance with the criteria and guidelines laid down in Council common position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment and Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 4 – point d

Text proposed by the Commission

(d) to offer a public regulated service (PRS) restricted to government-authorised users, for *sensitive* applications which require a high level of service continuity; this service uses strong, encrypted signals;

Amendment

(d) to offer a public regulated service (PRS) restricted to government-authorised users, *in particular for applications with sensitive content or of strategic importance* which require a high level of service continuity; this service uses strong, encrypted signals;;

Amendment 19

Proposal for a regulation

Article 14 - paragraph 1

Text proposed by the Commission

1. The systems and their operation shall be secure.

Amendment

1. The systems and their operation shall be secure *in view of their implications for the security and defence policy interests of the Union and the Member States.*

Amendment 20

Proposal for a regulation

Article 15 – paragraph 1 – point a – point ii

Text proposed by the Commission

(ii) the operation of the Galileo security centre, in accordance with the standards and requirements referred to in Article 14 and the instructions provided under Joint Action 2004/552/CFSP referred to in Article 17;

Amendment

(ii) the operation of the Galileo security centre, in accordance with the standards and requirements referred to in Article 14 and the instructions provided under Joint Action 2004/552/CFSP referred to in Article 17, ***currently under revision***;

Amendment 21

Proposal for a regulation

Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16a

The role of the European Parliament

The European Parliament, in view of its budgetary control competences and thematic work, shall, through its relevant committees, scrutinize the creation, implementation and operation of the system and shall be kept informed by the relevant bodies on the programme at regular intervals.

Amendment 22

Proposal for a regulation

Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a

Usage for security and defence purposes

1. The operating agencies shall enact special provisions for the operation of the systems by the Member States, as well as

the Union, for security and defence purposes, concerning technologies, guidance systems as well as usage in operations and missions, in order to ensure the security of this type of usage.

2. The Commission shall enact binding security measures for the integrity of the system when used by security actors, in accordance with the Union legislation in force.

Amendment 23

Proposal for a regulation Article 27 - paragraph 1

Text proposed by the Commission

1. The Member States shall not take measures which could harm the progress of the programmes, in particular concerning intellectual property rights and the continuity of the operation of the infrastructures.

Amendment

1. The Member States shall not take measures which could harm the progress of the programmes, in particular concerning intellectual property rights and the continuity of the operation of the infrastructures *or which could harm the security and defence policy interests of the Union or the Member States.*

Amendment 24

Proposal for a regulation Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The Member States shall take all necessary measures to safeguard the EU's strategic autonomy, so that in the long term civil and military actors in the field of internal and external security are in a position to make full use of the public regulated and safety-of-life services under the Galileo programme.

Amendment 25

Proposal for a regulation
Article 27 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2 b) The Member States shall take all necessary measures to ensure the protection of the Union's space infrastructure. In particular, the Member States shall foster the legal framework in outer space and adhere to the principals of the EU Code of Conduct in Outer Space activities, including the prohibition of harmful interference with space objects, the prohibition of action that creates harmful space debris, the adherence to the UN space debris mitigation guidelines and the creation of transparency and security building measures in outer space.

Amendment 26

Proposal for a regulation
Article 28

Text proposed by the Commission

Amendment

The Union may enter into agreements with third countries and international organisations in the context of the programmes, in particular, cooperation agreements in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union.

The Union may enter into agreements with third countries and international organisations in the context of the programmes, in particular, cooperation agreements in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union. ***Any form of cooperation with third countries shall take account of the strategic nature of the programmes, be in accordance with the security and defence policy interests of the Union and the Member States and respect the principle of mutuality. The European Parliament shall be consulted and/or give its consent, as appropriate.***

Amendment 27

Proposal for a regulation
Article 28 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

When negotiating agreements with third countries or when entering into agreements with third countries, the Union shall ensure full compliance with the criteria and guidelines laid down in Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment¹ and Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items².

The Union shall foster the legal framework created by the Outer Space Treaty to safeguard a peaceful and secure functioning of space infrastructure. The Union therefore shall strengthen its capabilities to achieve space situational awareness together with its partners in the framework of a multilateral space surveillance system.

¹ OJ L 335, 13.12.2008, p. 99.

² OJ L 134, 29.5.2009, p. 1.

Amendment 28

Proposal for a regulation
Article 29 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

Any technical assistance shall respect the security and defence policy interests of the Union and the Member States.

Amendment 29

Proposal for a regulation

Article 33 - paragraph 1- subparagraph 1

Text proposed by the Commission

1. By 30 June 2018, the Commission shall present an evaluation report 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:

Amendment

1. By **30 June 2015**, the Commission shall present **a mid-term evaluation report and by** 30 June 2018, an evaluation report 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:

Amendment 30

Proposal for a regulation

Article 35 - paragraph 4

Text proposed by the Commission

4. Representatives of the European GNSS Agency and the European Space Agency may be involved as observers in the work of the Committee under the conditions laid down in its rules of procedure.

Amendment

4. Representatives of the European GNSS Agency and the European Space Agency may be involved as observers in the work of the Committee under the conditions laid down in its rules of procedure. ***If needed, representatives of the European External Action Service, the European Defence Agency, the European Parliament or national experts on security and defence matters may also be involved as observers in the work of the Committee.***

Amendment 31

Proposal for a regulation

Article 35 - paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission shall provide the Committee referred to in paragraph 1 with all relevant information pertaining to the programmes in a timely manner.

PROCEDURE

Title	Implementation and exploitation of European satellite navigation systems		
References	COM(2011)0814 – C7-0464/2011 – 2011/0392(COD)		
Committee responsible Date announced in plenary	ITRE 15.12.2011		
Opinion by Date announced in plenary	AFET 15.12.2011		
Rapporteur Date appointed	Sampo Terho 6.3.2012		
Discussed in committee	25.4.2012	29.5.2012	20.6.2012
Date adopted	5.7.2012		
Result of final vote	+: 47 -: 4 0: 3		
Members present for the final vote	Pino Arlacchi, Elmar Brok, Jerzy Buzek, Tarja Cronberg, Arnaud Danjean, Michael Gahler, Marietta Giannakou, Andrzej Grzyb, Anna Ibrisagic, Liisa Jaakonsaari, Anneli Jäätteenmäki, Jelko Kacin, Ioannis Kasoulides, Evgeni Kirilov, Maria Eleni Koppa, Andrey Kovatchev, Paweł Robert Kowal, Eduard Kukan, Vytautas Landsbergis, Ryszard Antoni Legutko, Krzysztof Lisek, Sabine Lösing, Ulrike Lunacek, Mario Mauro, Francisco José Millán Mon, Alexander Mirsky, Annemie Neyts-Uyttebroeck, Norica Nicolai, Ria Oomen-Ruijten, Pier Antonio Panzeri, Alojz Peterle, Bernd Posselt, Hans-Gert Pöttering, Libor Rouček, Tokia Saïfi, Nikolaos Salavrakos, Werner Schulz, Marek Siwiec, Geoffrey Van Orden, Kristian Vigenin, Sir Graham Watson, Boris Zala		
Substitute(s) present for the final vote	Charalampos Angourakis, Jean-Jacob Bicep, Véronique De Keyser, Andrew Duff, Tanja Fajon, Carmen Romero López, Helmut Scholz, Indrek Tarand, Dominique Vlasto, Joachim Zeller		
Substitute(s) under Rule 187(2) present for the final vote	Catherine Bearder, Petru Constantin Luhan		

6.6.2012

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems
(COM(2011)0814 – C7-0464/2011 – 2011/0392(COD))

Rapporteur: Maria Da Graça Carvalho

SHORT JUSTIFICATION

The EU is responsible for the setting up of the European Global Navigation System (GNSS) and is the owner of the Galileo and EGNOS systems. The EU ownership and responsibility for the Galileo and EGNOS programmes have been confirmed on a number of occasions by the European Parliament and the Council. Even more, the Galileo and EGNOS programmes are recognised as flagship projects of the Union and represent an integral part of the Europe 2020 strategy. Your rapporteur fully endorses, therefore, the Commission proposal to continue funding these programmes within the next Multiannual Financial Framework 2014-2020.

In its proposal for a Council Regulation laying down the MFF for the years 2014-2020, the Commission includes a maximum amount of EUR 7 billion in commitment appropriations at 2011 prices (about EUR 7.9 billion in current prices) for these programmes. It also emphasises that no additional appropriations will be made available from the EU budget. In the event of cost overruns, the programmes would either need to be adapted to the actual amounts available, or the MFF Regulation would need to be amended by a unanimous Council decision with the consent of the European Parliament. This amount is, therefore, "ring-fenced" in the EU budget, while no flexibility within the headings will apply to these programmes.

It should be reminded that the MFF 2007-2013 was revised for the amount of 1.3 billion (current prices) for the Galileo programme at the end of 2007, following long and strenuous negotiations between the European Parliament and the Council. This revision was deemed necessary due to significant cost overruns of the programme that had to be covered partially by an MFF revision.

In order to minimise the possibility of cost overruns in the future, the current Commission proposal includes in the financial envelopes of these programmes EUR 1005 million (current

prices) to cover potential deployment and exploitation risks. Your rapporteur also notes the Commission's conviction that the deployment and exploitation phase, which the Galileo programme has now reached, bear, by definition, less risk for cost overruns than what was the case previously during the development phase. However, in the event of additional unforeseen financial obligations, and in order to confirm the EU identity of the programmes, your rapporteur believes that those should be covered by the margin available between the MFF ceilings and the own resources ceiling.

Your rapporteur proposes a number of additional modifications to the Commission proposal, notably the need for the budgetary authority to be kept promptly informed on several stages of the implementation of this Regulation (instead of only a Committee of Member States representatives) in order to being able to fully exercise its budgetary control and planning prerogatives. In this respect, particular emphasis is put on the need for the Commission to inform sufficiently in advance the European Parliament and the Council in the event of uncontrollable risks that could cause significant programme deviations in terms of cost or schedule. Your rapporteur sets out the minimum elements that should be part of the annual report of the Commission to the European Parliament and the Council on the implementation of the programmes, including an update on the evaluation and control of risks and an assessment of their possible impact on cost and time deviations.

AMENDMENTS

The Committee on Budgets calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Draft legislative resolution

Paragraph 1 a (new)

Draft legislative resolution

Amendment

1a. Points out that the financial envelope specified in the legislative proposal constitutes only an indication to the legislative authority and cannot be fixed until agreement is reached on the proposal for a regulation laying down the multiannual financial framework for the years 2014-2020;

Justification

Pursuing work on an individual policy basis or specific issues should not lead to a loss of overview of what has to remain a global MFF negotiation, where nothing can be considered

as agreed until everything is agreed. After agreement on the regulation on the MFF, the EP and Council will agree on the individual legislative proposals, including their financial envelopes, pending before the EP and Council and proceed to their final adoption.

Amendment 2

Draft legislative resolution

Paragraph 1b (new)

Draft legislative resolution

Amendment

1b. Recalls its resolution of 8 June 2011 on Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe¹; reiterates that sufficient additional resources are needed in the next MFF in order to enable the Union to fulfil its existing policy priorities and the new tasks provided for in the Treaty of Lisbon, as well as to respond to unforeseen events; challenges the Council, if it does not share this approach, to clearly identify which of its political priorities or projects could be dropped altogether, despite their proven European added value;

¹ *Texts adopted, P7_TA(2011)0266.*

Amendment 3

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) These programmes should receive suitable funding owing to their importance, their European dimension and their intrinsic European added value.

Amendment 4

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) The deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme should, in principle, be entirely financed by the Union. However in accordance with Regulation (EC, *Euratom*) No 1605/2002 of 25 June 2002 on the financial regulation applicable to the general budget of the European Communities, the Member States should be able to provide additional funding to the programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements requested by them, e.g. concerning the system architecture or particular security needs. Third countries and international organisations should also be able to contribute to the programmes.

Amendment

(13) The deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme should, in principle, be entirely financed by the Union. However in accordance with Regulation (EU) No XXX/2012 of the European Parliament and of the Council of ... 2012 on [the financial rules applicable to the annual budget of the Union], the Member States should be able to provide additional funding to the programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements requested by them, e.g. concerning the system architecture or particular security needs. Third countries and international organisations should also be able to contribute to the programmes *in accordance with the principle of mutual interest*.

Justification

Alignment with new Financial Regulation.

Amendment 5

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) In order to guarantee the continuation of the programmes, an appropriate financial framework must be established to allow the Union to continue to finance

Amendment

(14) *Given the long lead times involved and the levels of capital investment already committed to these projects, sufficient and consistent financial*

them. It is also necessary to *indicate* the amount of money required between 1 January 2014 to 31 December 2020 to finance completion of the deployment phase of the Galileo programme and operation of the systems.

commitments over financial planning periods are required in order to ensure the planning continuity and organisational stability of the programmes. In order to guarantee the continuation of the programmes, an appropriate financial framework must be established to allow the Union to continue to finance them. It is also necessary to *specify* the *maximum* amount of money required between 1 January 2014 to 31 December 2020 to finance completion of the deployment phase of the Galileo programme and operation of the systems.

Amendment 6

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) 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 bear, in particular those relating to non-contractual liability arising from the public ownership of the systems, especially with regard to force majeure and catastrophic failure. These obligations are the subject of a specific analysis by the Commission.

Amendment

(17) 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 bear, in particular those relating to non-contractual liability arising from the public ownership of the systems, especially with regard to force majeure and catastrophic failure. These obligations are the subject of a specific analysis by the Commission. *Any such unforeseen financial obligations should be covered by the margin between the own resources and the MFF ceilings.*

Amendment 7

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) In addition the revenue generated by the systems should accrue to the Union in order to compensate for the investments that it has made previously. A revenue-sharing mechanism might also be provided for in contracts concluded with private sector companies.

Amendment

(19) In addition the revenue generated by the systems should accrue to the Union in order to compensate for the investments that it has made previously. ***In accordance with Article 294 of the Treaty on the functioning of the European Union (TFEU) a*** revenue-sharing mechanism might also be ***adopted and*** provided for in contracts concluded with private sector companies.

Amendment 8

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) In order to avoid the cost over-runs and delays which have affected the progress of the programmes over the last few years, efforts ***need to*** be stepped up to control risks which might lead to excess costs as requested by the Council and the Parliament in their respective conclusions and resolutions of 31 March 2011 and 8 June 2011, and as shown by the Commission's Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions of 29 June 2011 entitled 'A budget for Europe 2020'.

Amendment

(20) In order to avoid the cost over-runs and delays which have affected the progress of the programmes over the last few years, efforts ***will*** be stepped up to control risks which might lead to excess costs as requested by the Council and the Parliament in their respective conclusions and resolutions of 31 March 2011 and 8 June 2011, and as shown by the Commission's Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions of 29 June 2011 entitled 'A budget for Europe 2020'. ***Deployment and exploitation risks have been estimated to represent about EUR 1 005 million (at current prices) and have been included in the financial envelope of the programmes. Should additional***

financial resources be needed for these programmes, they should not be found at the expense of smaller successful projects that are financed by the Union budget. Any additional financial resources derived from these risks should be covered by the margin between the own resources and the MFF ceilings.

Amendment 9

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) **The Union should** conclude a multiannual delegation agreement with the European Space Agency covering the technical and planning aspects of the programmes. In order for the Commission, **representing the Union**, to exercise its power of control fully, the delegation agreement should include the general conditions for managing the funds entrusted to the European Space Agency. Concerning activities exclusively financed by the Union, these conditions must ensure a degree of control comparable to that required if the European Space Agency was an Agency of the Union.

Amendment

(24) **In accordance to Article 290 of the TFEU, power should be delegated to the Commission to conclude, on behalf of the Union**, a multiannual delegation agreement with the European Space Agency covering the technical and planning aspects of the programmes. 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 the European Space Agency. Concerning activities exclusively financed by the Union, these conditions must ensure a degree of control comparable to that required if the European Space Agency was an Agency of the Union.

Amendment 10

Proposal for a regulation Recital 27

Text proposed by the Commission

(27) In order to allocate the Union funds attributed to the programmes with a ceiling total that the Commission must not exceed, effective public procurement procedures

Amendment

(27) In order to allocate the Union funds attributed to the programmes with a ceiling total **set out in Article 14 of the proposed regulation on MFF 2014-2020** that the

must 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 contracting authority must make every effort to meet these requirements.

Commission must not exceed, effective public procurement procedures must 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 contracting authority must make every effort to meet these requirements.

Amendment 11

Proposal for a regulation Recital 36

Text proposed by the Commission

(36) Assessments 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 programmes.

Amendment

(36) 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 programmes.

Justification

Appropriate indicators need to be fixed to properly assess the progress of the programme.

Amendment 12

Proposal for a regulation Article 1 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The following indicators and targets shall be used, inter alia, to measure the degree of attainment of the specific objectives of the Galileo programme:

(a) cumulative number of operational satellites: 18 satellites by 2015, 30 by 2019;

(b) terrestrial infrastructure deployed

version: version 2 by 2015;

(c) number of services implemented: 3 initial services by 2015, 5 services by 2020.

Justification

Appropriate indicators and targets need to be fixed to properly assess the progress of the programme. The proposed indicators are the ones included by the Commission in the legislative financial statement.

Amendment 13

Proposal for a regulation

Article 1 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The following indicator and target shall be used, inter alia, to measure the degree of attainment of the specific objectives of the EGNOS programme:

- number of changes in services presented to the certification authorities: 3 in 2014-2020.

Justification

Appropriate indicators and targets need to be fixed to properly assess the progress of the programme. The proposed indicators are the ones included by the Commission in the legislative financial statement.

Amendment 14

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

That expenditure shall not exceed 1% of the total Union appropriations assigned to the programmes.

Justification

EUR 70 million should be sufficient to carry out these tasks.

Amendment 15

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

3. In order to allow the costs of the programmes and of the different phases of the programmes to be clearly identified, the Commission, in accordance with the principle of transparent management, shall inform the Committee referred to in Article 35(1) annually of the allocation of Union funds to each of the activities specified in paragraphs 1 and 2.

Amendment

3. In order to allow the costs of the programmes and of the different phases of the programmes to be clearly identified, the Commission, in accordance with the principle of transparent management, shall inform the ***budgetary authority and the*** Committee referred to in Article 35(1) annually of the allocation of Union funds to each of the activities specified in paragraphs 1 and 2.

(This amendment applies throughout the text in: Article 8 - paragraph 2, Article 16 - paragraph 4, Justification remains the same.)

Justification

The Commission shall be assisted by a Committee on European GNSS Programmes. As sound public governance requires uniform management of the programmes, faster decision-making, equal access to information and transparency. Committee on European GNSS Programmes was established in accordance with Article 19 of 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).

Amendment 16

Proposal for a regulation

Article 10 – paragraph 2

Text proposed by the Commission

2. The appropriations shall be implemented

Amendment

2. The appropriations shall be implemented

in accordance with the provisions of this Regulation and Regulation (*EC, Euratom*) No 1605/2002.

in accordance with the provisions of this Regulation and Regulation (*EU*) No XXX/2012 [*New Financial Regulation*].

Justification

Alignment with new Financial Regulation.

Amendment 17

**Proposal for a regulation
Article 11 – paragraph 2**

Text proposed by the Commission

2. A revenue-sharing mechanism may be provided for in contracts concluded with private sector entities.

Amendment

2. Any revenue-sharing mechanism shall be adopted in accordance with Article 294 TFEU. This revenue-sharing mechanism may be provided for in contracts concluded with private sector entities.

Amendment 18

**Proposal for a regulation
Article 16 – paragraph 1**

Text proposed by the Commission

1. The Commission shall conclude a multiannual delegation agreement with the European Space Agency on the basis of a delegation decision adopted by the Commission in accordance with **Article 54(2) of Regulation (EC, Euratom) No 1605/2002**. This agreement shall cover the execution of tasks and the budget subject to the delegation in accordance with the implementation of the programmes, in particular completion of the infrastructure under the Galileo programme.

Amendment

1. The Commission shall conclude, **by means of a delegated act**, a multiannual delegation agreement with the European Space Agency on the basis of a delegation decision adopted by the Commission in accordance with **Article XX of Regulation (EU) No XXX/2012 [New Financial Regulation]**. This agreement shall cover the execution of tasks and the budget subject to the delegation in accordance with the implementation of the programmes, in particular completion of the infrastructure under the Galileo

programme.

Justification

The agreement with the European Space Agency is a critical factor for the successful completion of the programmes. Its terms and conditions could be laid down in the legislative act but, for the sake of legislative economy, it is appropriate to delegate this power to the Commission.

Amendment 19

Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

Amendment

<i>3. The Committee referred to in Article 35(1) shall be consulted on the delegation decision referred to in paragraph 1 of this Article, in accordance with the consultation procedure referred to in Article 35(2). The Committee shall be informed of the multiannual delegation agreement to be concluded by the Commission and the European Space Agency.</i>	<i>deleted</i>
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Justification

No Committee procedure for a delegated act.

Amendment 20

Proposal for a regulation
Article 32

Text proposed by the Commission

Amendment

The Commission shall ensure the

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 programmes.

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 programmes.

That report shall include, inter alia:

(a) an assessment of the implementation of the programmes and of the progress made in achieving the targets established pursuant Article 1(4) and (5);

(b) an update of the evaluation and control of risks and an assessment of their possible impact in terms of cost and time deviations;

(c) a summary of all information submitted to the budgetary authority under Articles 7(3), 8(2), 9(2) and 16(4));

(d) an evaluation of the functioning of the multiannual delegation agreement concluded pursuant to Article 16(1).

Amendment 21

Proposal for a regulation

Article 32 –paragraph 1a (new)

Text proposed by the Commission

Amendment

1a. In order to follow closely the implementation of the European GNSS programmes, the European Parliament, the Council and the Commission shall meet on a regular basis in the Galileo Interinstitutional Panel in accordance with the Joint declaration on the Galileo Interinstitutional Panel of 9 July 2008.

Amendment 22

Proposal for a regulation

Article 32 –paragraph 1b(new)

Text proposed by the Commission

Amendment

1b. The Commission shall inform the European Parliament and the Council sufficiently in advance if it considers that there could be non controllable risks or other factors that could cause significant programme deviations in particular in terms of cost and schedule.

PROCEDURE

Title	Implementation and exploitation of European satellite navigation systems						
References	COM(2011)0814 – C7-0464/2011 – 2011/0392(COD)						
Committee responsible Date announced in plenary	ITRE 15.12.2011						
Opinion by Date announced in plenary	BUDG 15.12.2011						
Rapporteur Date appointed	Maria Da Graça Carvalho 6.2.2012						
Date adopted	31.5.2012						
Result of final vote	<table> <tr> <td>+: </td><td>26</td></tr> <tr> <td>–: </td><td>3</td></tr> <tr> <td>0: </td><td>1</td></tr> </table>	+:	26	–:	3	0:	1
+:	26						
–:	3						
0:	1						
Members present for the final vote	Marta Andreasen, Richard Ashworth, Francesca Balzani, Zuzana Brzobohatá, Jean-Luc Dehaene, Göran Färm, José Manuel Fernandes, Eider Gardiazábal Rubial, Salvador Garriga Polledo, Jens Geier, Lucas Hartong, Jutta Haug, Sidonia Elżbieta Jędrzejewska, Ivailo Kalfin, Sergej Kozlík, Jan Kozłowski, Alain Lamassoure, Giovanni La Via, Claudio Morganti, Juan Andrés Naranjo Escobar, Nadezhda Neynsky, Dominique Riquet, Alda Sousa, László Surján, Jacek Włosowicz						
Substitute(s) present for the final vote	Alexander Alvaro, Jürgen Klute, Paul Rübig, Peter Šťastný, Gianluca Susta						

12.7.2012

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems
COM(2011)0814 – C7-0464/2011 – 2011/0392(COD))

Rapporteur: Jacqueline Foster

SHORT JUSTIFICATION

I. Commission proposal

The current proposal for a Regulation on the implementation and exploitation of European satellite navigation programmes lays down the governance model for the Galileo and EGNOS (European Geostationary Navigation Overlay Service) programmes and their financing for the period 2014-2020.

The aim of the Galileo programme is to establish and operate the first global satellite navigation and positioning infrastructure specifically designed for civilian purposes. It includes a definition phase which is complete, a development and validation phase due for completion in 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 for a fully operational system by 2020.

The aim of the EGNOS programme is to improve the quality of signals from existing global navigation satellite systems. EGNOS 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.

II. Rapporteur's overall position

Your Rapporteur welcomes the Commission's proposal for a new Regulation which aims to cover the needs of the programmes for the next multiannual financial period, particularly in terms of governance and sound financial management, and renew the EU's commitment to ensuring the completion and operation of the systems by 2020.

It should be emphasised that all citizens of the Union will benefit from a wide range of services offered by EGNOS and Galileo. Nowadays satellite navigation users in Europe have to use satellite signals from systems which are not controlled by the EU and are not primarily designed to serve European purposes. The availability of these systems may be insufficient particularly in densely populated urban areas. Moreover, they do not always provide sufficient guarantee for quality, precision and continuity of service to the end-users.

It should also be noted that the construction and deployment of the European satellite navigation systems are expected to generate direct benefits for hundreds of companies throughout the EU, including an increasing number of SMEs, and create thousands of highly skilled jobs. The systems are also particularly crucial for expanding European knowledge in the field of satellite navigation technology and for maintaining space policy expertise throughout Europe. Downstream, the proliferation of applications associated with satellite radio navigation represents a unique opportunity for growth of European businesses and industry.

Given the wide support for the aims of this legislative proposal, your Rapporteur is proposing a limited number of amendments with the broad objective of strengthening and clarifying the provisions related to the public governance and sound financial management of the programmes and emphasising their importance for the transport sector.

i) Public governance of the programmes

Sound public governance of the Galileo and EGNOS programmes requires, firstly, that there is a strict division of tasks, in particular between the Commission, the European GNSS Agency and the European Space Agency, and, secondly, that the governance is progressively adapted to the operational requirements of the systems. The Commission envisages assigning the task of the programmes exploitation for the period 2014-2020 to the European GNSS Agency. In order to allow the Agency to build up its capacity, it is necessary to ensure that it has the appropriate human resources to carry out its increased competencies under this Regulation. It should be emphasised that the forthcoming relocation of the headquarters of the Agency should not have a negative impact on its manpower and level of expertise.

ii) Importance of the programmes for the transport sector

The European satellite navigation systems are infrastructures set up as trans-European networks of which the usage extends well beyond the national boundaries of the Member States. The programmes are expected to have a significant number of benefits for the transport sector, inter alia:

a) Road transport

- enhance road management and reduce congestion
- improve response times in the event of road traffic emergencies
- facilitate the monitoring of transportation of dangerous goods
- assist drivers with their travel plans providing more precise traffic information
- improve tolling and electronic fee collection
- reduce travel time and fuel consumption

b) Rail transport

- enable the automation of track surveillance
- assist in operational upgrades such as track improvements and general safety requirements
- reduce delays and operating costs, while increasing track capacity
- offer passengers more accurate information on train arrivals

c) Maritime transport and inland waterways

- improve traffic management, especially in ports or high-traffic corridors
- enhance maritime safety
- improve vessel monitoring and rescue operations
- provide accurate information where oil spills occur

d) Air transport

- enhance and facilitate the use of small and peripheral airports by civil aircraft
- play an integral role in the development of the Single Sky Policy and SESAR
- improve traffic management and operational safety at airports.

iii) Financing

The Union's contribution for the period 2014-2020 is estimated by the Commission at EUR 7.897 million. It covers mainly the deployment and the exploitation phases of the Galileo programme and the operation of the EGNOS system. In order to avoid cost over-runs and delays which have affected the progress of the programmes during recent years, it is necessary to strengthen the public governance and sound financial management of the programmes.

AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The Galileo and EGNOS programmes are particularly important in transport applications, including intelligent transport systems. In the road transport sector, they are crucial for the improvement of road safety and

traffic management, the reduction of congestion, travel times and fuel consumption, and the monitoring of animal transportation. In the rail transport sector, they can enable the automation of track surveillance, improve safety, reduce delays and operating costs and offer passengers more accurate information. In the maritime and inland waterways sectors, they can enhance maritime safety, improve port handling capacity, permit tracking of container fleets and provide accurate positioning information in emergency situations. In the air transport sector, they encourage and enable the use of small and peripheral airports by civil aviation and play an integral role in the development of the Single Sky Policy. In the space sector, they can make navigation more accurate in launcher trajectory management. Given the increased demand for an efficient and integrated European transport network, it is imperative to ensure that transport applications enabled by the Galileo and EGNOS systems continue to be developed. This will allow the citizens of the Union to reap the benefits derived from the systems, and ensure that public confidence in the programmes is maintained.

Amendment 2

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Given the increasing usage 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. In addition, due to their strategic aspect, satellite navigation systems are sensitive infrastructures, that could be susceptible to malicious use. The

Amendment

(8) Given the increasing usage 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

abovementioned aspects could affect the security of the Union and its Member States. Security requirements must therefore be taken into account in the design, implementation and operation of the infrastructures emerging from the Galileo and EGNOS programmes.

could be susceptible to malicious use. The abovementioned aspects could affect the security of the Union and its Member States. Security requirements must therefore be taken into account in the design, implementation and operation of the infrastructures emerging from the Galileo and EGNOS programmes.

Amendment 3

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) It is necessary to progressively extend the geographic coverage of the EGNOS system across the entire territory of the Union and, subject to technical and financial constraints and international agreements, to neighbouring regions of the Union, in particular territories of third countries covered by the Single European Sky.

Amendment 4

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) In order to optimise the use of the services provided, the systems, networks and services emerging from the Galileo and EGNOS programmes must be compatible and interoperable with one another and, ***insofar as possible***, with other satellite navigation systems and conventional means of radio navigation.

(11) In order to optimise the use of the services provided, the systems, networks and services emerging from the Galileo and EGNOS programmes must be compatible and interoperable with one another and with other satellite navigation systems and conventional means of radio navigation.

Amendment 5

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Since the Union is responsible, in principle, for financing the programmes in full, provision should be made for it to own all tangible and intangible assets created or developed under these programmes. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements with existing owners should be made, particularly for essential elements of the infrastructures and their security. In order to facilitate adoption of satellite navigation by the markets, there is a need to ensure that third parties can make optimum use in particular of the intellectual property rights arising from the programmes which belong to the Union, in particular at social and economic level.

Amendment

(12) Since the Union is responsible, in principle, for financing the programmes in full, ***it should be transparent and*** provision should be made for it to own all tangible and intangible assets created or developed under these programmes. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements with existing owners should be made, particularly for essential elements of the infrastructures and their security. In order to facilitate adoption of satellite navigation by the markets, there is a need to ensure that third parties can make optimum use in particular of the intellectual property rights arising from the programmes which belong to the Union, in particular at social and economic level.

Amendment 6

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) It should also be noted that the budgetary resources planned under this Regulation do not cover work financed by funds allocated to the Horizon 2020 programme, a Framework Programme for Research and Innovation, such as that associated with the development of applications derived from the systems. This work will help to optimise the use of the services provided in the context of the 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

Amendment

(18) It should also be noted that the budgetary resources planned under this Regulation do not cover work financed by funds allocated to the Horizon 2020 programme, a Framework Programme for Research and Innovation, such as that associated with the development of applications derived from the systems. This work will help to optimise the use of the services provided in the context of the programmes, to ensure a good social and economic return on the investments made by the Union and to increase the know-how of ***European*** businesses, in ***particular small and medium-sized enterprises***, with

satellite navigation technology.

regard to satellite navigation technology. ***It is therefore essential to allocate sufficient resources, under the Horizon 2020 programme, to the development of market-driven applications enabled by the Galileo and EGNOS systems, for both European and international use.***

Amendment 7

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Given that it represents the Union, which, in principle, provides financing for the programmes alone and owns the systems, the Commission must be responsible for the progress of the programmes and their ***political*** supervision. It must manage the funds allocated to the programmes under the current Regulation, supervise the implementation of all activities of the programmes and a clear division of tasks, in particular between the European GNSS Agency and the European Space Agency. Accordingly, in addition to the tasks associated with these general responsibilities and the other tasks incumbent upon it under this Regulation, it should be assigned a non-exhaustive set of 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 (EC, Euratom) No 1605/2002 and, in particular, Article 54 thereof.

Amendment

(22) Given that it represents the Union, which, in principle, provides financing for the programmes alone and owns the systems, the Commission must be responsible for the progress of the programmes and their ***overall*** supervision. It must manage the funds allocated to the programmes under the current Regulation, supervise the implementation of all activities of the programmes and a clear division of tasks, in particular between the European GNSS Agency and the European Space Agency, ***with a view to avoiding overlapping of responsibilities.*** Accordingly, in addition to the tasks associated with these general responsibilities and the other tasks incumbent upon it under this Regulation, it should be assigned a non-exhaustive set of 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 (EC, Euratom) No 1605/2002 and, in particular, Article 54 thereof.

Amendment 8

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) The European GNSS Agency was established by 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 Council¹⁴ in order to achieve the objectives of the Galileo and EGNOS programmes and implement certain tasks associated with the progress of the programmes. It is an agency of the Union which, as a body within the meaning of Article 185 of Regulation (EC, Euratom) No 165/2002, is subject to the obligations applicable to Union agencies. It should be assigned certain tasks associated with programme security, its potential designation as a competent PRS authority and its contribution to the marketing of the systems. It should also perform tasks which the Commission may confer on it by means of one or more delegation agreements covering other various specific tasks associated with the programmes, including tasks associated with the exploitation phases of the systems and promotion of *the* applications and services on the satellite navigation market. In order for the Commission, representing *of* the Union, to exercise its power of control fully, these delegation agreements should include the general conditions governing the management of funds entrusted to the European GNSS Agency.

Amendment

(23) The European GNSS Agency was established by 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 Council¹⁴ in order to achieve the objectives of the Galileo and EGNOS programmes and implement certain tasks associated with the progress of the programmes. It is an agency of the Union which, as a body within the meaning of Article 185 of Regulation (EC, Euratom) No 165/2002, is subject to the obligations applicable to Union agencies. It should be assigned certain tasks associated with programme security, its potential designation as a competent PRS authority and its contribution to the marketing of the systems. It should also perform tasks which the Commission may confer on it by means of one or more delegation agreements covering other various specific tasks associated with the programmes, including tasks associated with the exploitation phases of the systems and *the development and* promotion of applications and services on the satellite navigation market. *It is therefore necessary to ensure that the agency has the necessary human resources with the required expertise to carry out its increased competencies under this Regulation.* In order for the Commission, representing the Union, to exercise its power of control fully, these delegation agreements should include the

general conditions governing the management of funds entrusted to the European GNSS Agency.

Amendment 9

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) ***It is necessary to ensure that*** the European Parliament and the Council are kept regularly informed about the implementation of the programmes. 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 of 9 July 2008.

Amendment

(35) The European Parliament and the Council ***should be*** kept regularly informed about the implementation of the programmes, ***including their costs and risks, the conclusion of international agreements with third countries, the preparation of satellite navigation markets and the effectiveness of governance arrangements. Particular reference should be made to the implementation of the two programmes as regards the 'Safety of Life' service.*** 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 of 9 July 2008. ***The Panel should continue to facilitate a close cooperation between the three institutions with a view to monitoring the implementation of the programmes. The Commission should continue to contribute to the preparation of the meetings of the Panel and, as appropriate, to provide detailed information at the request of the institutions.***

Amendment 10

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 11

Proposal for a regulation

Article 1 – paragraph 4 – point b

Text proposed by the Commission

(b) to offer a safety-of-life service (SoL) aimed at users for whom safety is essential. this service also fulfils the requirements of certain sectors for continuity, availability and accuracy and includes an integrity function alerting the user to any failure in the system;

Amendment

(b) to offer a safety-of-life service (SoL) aimed at users for whom safety is essential. this service, **which is provided free of direct user charges**, also fulfils the requirements of certain sectors for continuity, availability and accuracy and includes an integrity function alerting the user to any failure in the system;

Amendment 12

Proposal for a regulation

Article 1 – paragraph 4 – point e

Text proposed by the Commission

(e) to participate in the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting emergency signals **given off** by beacons and relaying messages to them.

Amendment

(e) to participate in the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting **and locating** emergency signals **emitted** by beacons and relaying messages to them.

Amendment 13

Proposal for a regulation

Article 1 – paragraph 5 – subparagraph 1 – point c

Text proposed by the Commission

(c) to offer a safety-of-life service (SoL) service aimed at users for whom safety is essential; ***in particular***, this service fulfils the requirements of certain sectors for continuity, availability and accuracy and includes an integrity message alerting the user to any failure in the system over the coverage area.

Amendment

(c) to offer a safety-of-life service (SoL) 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 the system over the coverage area.

Amendment 14

Proposal for a regulation

Article 2

Text proposed by the Commission

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

Amendment

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

Amendment 15

Proposal for a regulation

Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) an exploitation phase ***comprising*** infrastructure management, maintenance, ongoing improvement, renewal and protection of the system, certification and standardisation operations associated with the programme, the supply and marketing of services and all other activities needed to develop the system and ensure that the

Amendment

(d) an exploitation phase ***ensuring the successful deployment of applications. It will comprise*** infrastructure management, maintenance, ongoing improvement, renewal and protection of the system, certification and standardisation operations associated with the programme, ***the development***, supply and marketing of

programme runs smoothly; the aim is for this phase to begin progressively between 2014 and 2015 with provision of the initial services.

services and all other activities needed to develop the system and *its applications*, **and** ensure that the programme runs smoothly; the aim is for this phase to begin progressively between 2014 and 2015 with provision of the initial services, **and to make all services available by 2020**.

Justification

Putting an emphasis on the development of the application, which is the crucial element at the stage of an exploitation phase.

Amendment 16

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

2. The systems, networks and services resulting from the Galileo and EGNOS programmes shall, *insofar as possible*, be compatible and interoperable with other satellite navigation systems as well as with conventional means of radio navigation.

Amendment

2. The systems, networks and services resulting from the Galileo and EGNOS programmes shall be compatible and interoperable with other satellite navigation systems as well as with conventional means of radio navigation.

Amendment 17

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. The Member States may provide additional funding to the Galileo programme. The revenue arising from these contributions shall constitute assigned revenue in accordance with Article 18(2) of the Regulation (EC, Euratom) No 1605/2002. In accordance with the principle of transparent management, the Commission shall communicate any impact on the Galileo programme resulting from the application

Amendment

2. The Member States may provide additional funding to the Galileo programme. The revenue arising from these contributions shall constitute assigned revenue in accordance with Article 18(2) of the Regulation (EC, Euratom) No 1605/2002. In accordance with the principle of transparent management, the Commission shall communicate any impact on the Galileo programme resulting from the application

of this paragraph to the Committee in accordance with Article 35 (1) of this Regulation.

of this paragraph to *the European Parliament, the Council and* the Committee in accordance with Article 35 (1) of this Regulation.

Amendment 18

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. The Member States can provide additional funding to the EGNOS programme. The revenue arising from these contributions shall constitute assigned revenue in accordance with Article 18(2) of the Regulation (EC, Euratom) No 1605/2002. In accordance with the principle of transparent management, the Commission shall communicate any impact on the EGNOS programme resulting from the application of this paragraph to the Committee in accordance with Article 35 (1) of this Regulation.

Amendment

2. The Member States can provide additional funding to the EGNOS programme. The revenue arising from these contributions shall constitute assigned revenue in accordance with Article 18(2) of the Regulation (EC, Euratom) No 1605/2002. In accordance with the principle of transparent management, the Commission shall communicate any impact on the EGNOS programme resulting from the application of this paragraph to *the European Parliament, the Council and* the Committee in accordance with Article 35 (1) of this Regulation.

Amendment 19

Proposal for a regulation Article 12

Text proposed by the Commission

General framework for governance of the programmes

Public governance of the programmes is based on the principle of a strict division of tasks between the various bodies involved, in particular the Commission, European GNSS Agency and the European Space Agency.

Amendment

deleted

Justification

These provisions have been integrated into Article 12 b (new).

Amendment 20

Proposal for a regulation

Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

General governance framework of the programmes

The general governance framework for the programmes shall be as follows:

(a) the bodies performing tasks under this Regulation shall, in addition to the Commission, be in particular the European GNSS Agency and the European Space Agency;

(b) the Commission shall have the overall responsibility for the programmes. It shall manage the funds allocated under this Regulation, oversee the implementation of all programmes activities and perform the specific tasks referred to in Article 13 and the other provisions of this Regulation;

(c) the European GNSS Agency shall ensure the tasks referred to in Article 15 and be accountable for their implementation. The operational management of the programmes shall be based on delegation agreements between the Commission and the European GNSS Agency;

(d) the European Space Agency, through appropriate arrangements with the Commission and the European GNSS Agency, shall be requested to execute certain tasks associated to the design, development and procurement in the context of the implementation and the exploitation of the programmes in accordance with Article 16.

Amendment 21

Proposal for a regulation Article 12 b (new)

Text proposed by the Commission

Amendment

Article 12b

Principles for governance of the programmes

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

***(a) a strict division of tasks between the
various bodies involved, under the overall
responsibility of the Commission;***

***(b) constructive cooperation between the
bodies referred to in Article 12a and the
Member States;***

***(c) thorough control of the
implementation of the programmes,
including strict adherence to cost and
time-schedule by all the bodies involved.***

Amendment 22

Proposal for a regulation Article 13 – paragraph 1

Text proposed by the Commission

Amendment

***1. The Commission is responsible for the
progress of the programmes. It manages
the funds allocated to them under this
Regulation and monitors the
implementation of all programme
activities.***

deleted

Justification

These provisions have been integrated into Article 12 a (new).

Amendment 23

Proposal for a regulation

Article 13 – paragraph 2 – introductory part

Text proposed by the Commission

2. In addition to the **general tasks** referred to in **paragraph 1** and **those** referred to in **the** other provisions of this Regulation, the Commission's **tasks under this Regulation** **include** the following specific tasks:

Amendment

2. In addition to the **overall responsibility** referred to in **Article 12a** and **the tasks** referred to in other provisions of this Regulation, the Commission **shall carry out** the following specific tasks:

Amendment 24

Proposal for a regulation

Article 13 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) it shall ensure the timely implementation of the programmes within the allocated resources and in accordance with the programme objectives and time-schedule referred to in Article 1;

Amendment 25

Proposal for a regulation

Article 13 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) determine **the location** and **ensure** the **operation** of the ground-based infrastructure of the systems;

(a) determine **through an open and transparent process** the **location** of the ground-based infrastructure of the systems **and ensure their operation**;

Amendment 26

Proposal for a regulation

Article 15 – paragraph 1 – point c

Text proposed by the Commission

(c) in the context of the operation of the systems, it shall contribute to the marketing of services, including the necessary market analysis;

Amendment

(c) in the context of the operation of the systems, it shall contribute to the ***development and*** marketing of services, including the necessary market analysis;

Amendment 27

Proposal for a regulation

Article 15 – paragraph 1 – point d – point ii

Text proposed by the Commission

(ii) ***promotion*** of applications and services in the satellite navigation market;

Amendment

(ii) ***promote and monitor the development, and raise awareness*** of, applications and services in the satellite navigation market;

Amendment 28

Proposal for a regulation

Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The delegation agreement shall, insofar as necessary for the delegated tasks and budget implementation, lay down the 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, time-schedule and performance as well as the rules regarding ownership of all tangible and intangible property.

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

Amendment 29

Proposal for a regulation

Article 15 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where necessary, the European GNSS Agency may enter into appropriate arrangements with the European Space Agency in order to fulfil their respective tasks under this Regulation for the exploitation phase of the programmes.

Amendment 30

Proposal for a regulation

Article 20 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) to avoid possible abuse of dominance and ***long-term*** reliance on a single supplier;

(b) to avoid possible abuse of dominance and reliance on a single supplier;

Amendment 31

Proposal for a regulation

Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) to pursue dual sourcing, wherever appropriate, in order to reduce dependency on a single supplier and ensure better overall control of the programmes, their costs and time-schedule, a method which, where possible and relevant, should be set out as a specific selection criterion in the call for tender.

Justification

The application of dual sourcing should be clearly specified in the call for tender at the time of its official publication so as to ensure maximum transparency towards all the stakeholders and respondents.

Amendment 32

Proposal for a regulation

Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The objectives referred to in paragraph 1 shall be systematically pursued by the contracting authorities in their calls for tender and shall be used as selection criteria.

Amendment 33

Proposal for a regulation

Article 22 – paragraph 2

Text proposed by the Commission

Amendment

2. A conditional stage-payment contract includes a fixed stage which is accompanied by a budgetary commitment and one or more conditional stages. The tender documents refer to the specific features of conditional stage-payment contracts. In particular, they specify the

2. A conditional stage-payment contract includes a fixed stage which is accompanied by a budgetary commitment ***and a firm commitment regarding the execution of works and services contracted for this stage*** and one or more conditional ***budgetary and executory***

subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for provision of supplies and services at each stage.

stages. The tender documents refer to the specific features of conditional stage-payment contracts. In particular, they specify the subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for provision of supplies and services at each stage.

Amendment 34

Proposal for a regulation

Article 22 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where with regard to a particular stage the contracting authority notes that works and services agreed for that stage have not been realised, it may claim damages and terminate the contract.

Amendment 35

Proposal for a regulation

Article 25 – paragraph 1

Text proposed by the Commission

Amendment

1. The contracting authority may ask each tenderer to subcontract part of the contract, at different levels, to companies which do not belong to the group to which it belongs. This minimum sub-contracting section is expressed as a range from a minimum to a maximum percentage. This range is in proportion to the objective and value of the contract as well as the nature of the sector of activity concerned, in particular, the competitive conditions and industrial potential observed.

deleted

Amendment 36

Proposal for a regulation
Article 25 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. If the tenderer indicates in its tender that it intends not to sub-contract any share of the contract, not to sub-contract to any SME or new entrant or intends to subcontract a share below the minimum percentage, as referred to in paragraph 1, it shall provide the reasons therefore to the contracting authority. The contracting authority shall submit that information to the Commission.

Amendment 37

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

Amendment

In order to complete the technical tasks referred to in Article 13(2), the Commission may have recourse to the necessary assistance, in particular the assistance of experts from the national agencies competent in the space sector, independent experts and bodies ***capable of providing*** impartial analyses and opinions on the progress of the programmes.

In order to complete the technical tasks referred to in Article 13(2), the Commission may have recourse to the necessary assistance, in particular the assistance of experts from the national agencies competent in the space sector, independent experts and bodies ***competent to provide*** impartial analyses and opinions on the progress of the programmes.

Amendment 38

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

Amendment

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 Commission shall ensure the implementation of this Regulation. ***When*** it presents the annual preliminary draft budget, it shall, ***at the same time***, present a report to the European Parliament and to the Council on the implementation of the

the implementation of the programmes.

programmes, *including information on their costs and risks, the conclusion of international agreements with third countries, the preparation of satellite navigation markets and the effectiveness of governance arrangements.*

Amendment 39

Proposal for a regulation

Article 33 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The evaluation shall also address 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 evaluation results on the long-term impact of the previous measures.

Amendment

The evaluation shall also address *technological developments in this area*, 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 evaluation results on the long-term impact of the previous measures.

Amendment 40

Proposal for a regulation

Article 34 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 5 and 14 shall be conferred on the Commission for *an indeterminate* period from 1 January 2014.

Amendment

2. The power to adopt delegated acts referred to in Articles 5 and 14 shall be conferred on the Commission for *a period of five years* from 1 January 2014. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each*

period.

PROCEDURE

Title	Implementation and exploitation of European satellite navigation systems
References	COM(2011)0814 – C7-0464/2011 – 2011/0392(COD)
Committee responsible Date announced in plenary	ITRE 15.12.2011
Opinion by Date announced in plenary	TRAN 15.12.2011
Rapporteur Date appointed	Jacqueline Foster 19.12.2011
Discussed in committee	30.5.2012 09.7.2012
Date adopted	10.7.2012
Result of final vote	+: 38 -: 1 0: 0
Members present for the final vote	Magdi Cristiano Allam, Georges Bach, Izaskun Bilbao Barandica, Philip Bradbourn, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Philippe De Backer, Luis de Grandes Pascual, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Dieter-Lebrecht Koch, Ádám Kósa, Georgios Koumoutsakos, Werner Kuhn, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Gesine Meissner, Hubert Pirker, Dominique Riquet, David-Maria Sassoli, Vilja Savisaar-Toomast, Olga Sehnalová, Debora Serracchiani, Brian Simpson, Laurence J.A.J. Stassen, Silvia-Adriana Țicău, Giommara Uggias, Peter van Dalen, Artur Zasada
Substitute(s) present for the final vote	Spyros Danellis, Isabelle Durant

PROCEDURE

Title	Implementation and exploitation of European satellite navigation systems		
References	COM(2011)0814 – C7-0464/2011 – 2011/0392(COD)		
Date submitted to Parliament	30.11.2011		
Committee responsible Date announced in plenary	ITRE 15.12.2011		
Committee(s) asked for opinion(s) Date announced in plenary	AFET 15.12.2011	BUDG 15.12.2011	TRAN 15.12.2011
Rapporteur(s) Date appointed	Marian-Jean Marinescu 26.1.2012		
Discussed in committee	21.3.2012	19.6.2012	
Date adopted	18.9.2013		
Result of final vote	+: –: 0:	43 0 3	
Members present for the final vote	Amelia Andersdotter, Josefa Andrés Barea, Zigmantas Balčytis, Ivo Belet, Bendt Bendtsen, Fabrizio Bertot, Jan Březina, Maria Da Graça Carvalho, Giles Chichester, Jürgen Creutzmann, Pilar del Castillo Vera, Christian Ehler, Adam Gierek, Norbert Glante, András Gyürk, Edit Herczog, Romana Jordan, Krišjānis Kariņš, Lena Kolarska-Bobińska, Angelika Niebler, Jaroslav Paška, Aldo Patriciello, Herbert Reul, Paul Rübig, Francisco Sosa Wagner, Konrad Szymański, Patrizia Toia, Catherine Trautmann, Ioannis A. Tsoukalas, Claude Turmes, Vladimir Urutchev, Adina-Ioana Vălean, Alejo Vidal-Quadras		
Substitute(s) present for the final vote	Maria Badia i Cutchet, Antonio Cancian, Yves Cochet, António Fernando Correia de Campos, Ioan Enciu, Elisabetta Gardini, Jolanta Emilia Hibner, Seán Kelly, Bernd Lange, Marian-Jean Marinescu, Mario Pirillo		
Substitute(s) under Rule 187(2) present for the final vote	María Irigoyen Pérez, Cecilia Wikström		
Date tabled	4.10.2013		