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Committee on Industry, Research and Energy

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PE400.389v01-00

AMENDMENTS 23-66

Draft report

(PE396.800v01-00)

Etelka Barsi-Pataky

Amended proposal for a regulation of the European Parliament and of the Council on the further implementation of the European satellite radionavigation programmes (EGNOS and Galileo)

Proposal for a regulation (COM(2007)0535 – C6-0345/2007 – 2004/0156(COD))

Text proposed by the Commission

Amendments by Parliament

Amendment by Vladimír Remek

Amendment 23
Recital 9

(9) The definition and development phases of the Galileo programme, which are the parts of the programme dedicated to research, were chiefly financed by the Community budget for trans-European networks. The deployment phase **must** be financed entirely by the European Community **due to the lack of a real commitment from the private sector**. Service concession contracts or public service contracts with the private sector may be awarded to operate the system.

(9) The definition and development phases of the Galileo programme, which are the parts of the programme dedicated to research, were chiefly financed by the Community budget for trans-European networks. The deployment phase **is now intended to** be financed entirely by the European Community. Service concession contracts or public service contracts with the private sector may be awarded, **at a later stage**, to operate the system **after 2013**.

Or. xm

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Justification

The shadow rapporteur considers that the proposed changes constitute a closer and more accurate reflection of the actual situation.

Amendment by Angelika Niebler

Amendment 24
Recital 12

(12) Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes establishes the European GNSS Supervisory Authority (hereinafter "the Supervisory Authority"). *deleted*

Or. de

Justification

The task of the Supervisory Authority as laid down in Article 2 of Regulation (EC) No 1321/2004 was primarily to act as the licensing authority for the private undertakings which were originally to carry out the Galileo programmes. Following the failure of the consortium and the submission of the amended proposal for a regulation, this task has lapsed, and the Authority should therefore be abolished. The remaining tasks can also be undertaken by the Commission and the ESA.

Amendment by David Hammerstein

Amendment 25
Recital 14

(14) Investment costs and the costs for operating the Galileo and EGNOS systems for the period 2007-13 are currently estimated at EUR 3.4 billion at current prices. EUR 1 005 million is already foreseen in the existing financial programming (2007-13) under the Commission's proposed legislation for the implementation of the deployment and commercial operating phases of the Galileo

(14) Investment costs and the costs for operating the Galileo and EGNOS systems for the period 2007-13 are currently estimated at EUR 3.4 billion at current prices. EUR 1 005 million is already foreseen in the existing financial programming (2007-13) under the Commission's proposed legislation for the implementation of the deployment and commercial operating phases of the Galileo

programme. It is proposed to increase the above figure by an additional **EUR 2 100 million** the allocation of which **will be** subject to a review of the current financial framework (2007-13). The funds are provided from unused margins in **headings 2 and 5** for 2007 **and 2008**. As a result, the text of the amended proposal shall stipulate that the Community budget for 2007-13 foresee **EUR 3 105 million** for the European GNSS programmes. **A sum of EUR 300 million**, which is available for the European GNSS programmes under the Seventh Research and Development Framework Programme, **will help cover these costs**.

programme. It is proposed to increase the above figure by an additional **EUR 2 400 million** the allocation of which **has been** subject to a review of the current financial framework (2007-13). The funds are provided from unused margins in **heading 2** for 2007 **in the sum of EUR 1 600 million, EUR 200 million from the flexibility instrument and EUR 200 million from funds redeployed within heading 1A**. As a result, the text of the amended proposal shall stipulate that the Community budget for 2007-13 foresee **EUR 3 405 million** for the European GNSS programmes, **including a sum of EUR 400 million** which is available for the European GNSS programmes under the Seventh Research and Development Framework Programme.

Or. en

Justification

Updating of the text in light of the agreement reached on the revision of the financial framework.

Amendment by Etelka Barsi-Pataky

Amendment 26
Recital 14 a (new)

(14a) In the allocation of those Community funds, effective procurement procedures and contract negotiations that obtain best value for money and adherence to the proposed timetable for the programmes are essential. These shall be ensured by the Commission.

Or. en

Amendment by Teresa Riera Madurell, Inés Ayala Sender

Amendment 27
Recital 14 a (new)

(14a) Pursuant to Article 18 of the Financial Regulation applicable to the General Budget of the European Communities, the Member States, third countries and international organisations may contribute financially or in kind to European satellite radio-navigation programmes on the basis of appropriate agreements.

Or. es

Justification

The financing described in the Financial Regulation should be the basis governing the financial aspects of involvement in the Galileo Project on the part of countries or international organisations, which may contribute either in kind or financially (as has occurred at earlier stages with third countries). Not just countries but also international organisations should be allowed to become involved, although cooperation of this nature should be subject to the signing of an appropriate agreement.

Amendment by David Hammerstein

Amendment 28
Recital 16

(16) Furthermore, revenue from the operation of the Galileo and EGNOS systems must be collected by the European Community in order to ensure that its *earlier* investments are recovered. However, a revenue-sharing mechanism could be stipulated in any contracts concluded with the private sector for the operation of these systems.

(16) Furthermore, revenue from the operation of the Galileo and EGNOS systems must be collected by the European Community, ***given that the investment costs for the two systems will be fully met from public funds***, in order to ensure that its investments are recovered. However, a revenue-sharing mechanism could be stipulated in any contracts concluded with the private sector for the operation of these systems. ***It should be possible to stipulate revenue sharing or price cap mechanisms in any contracts concluded with the private sector as regards revenues from the provision of services under the Galileo***

system in order to ensure that customers receive high quality services at fair prices and/ or to develop new public services.

Or. en

Justification

Since the PPP failed because the private sector had difficulties in assuming the risks, and Galileo will now be fully financed by public funding, it is no more than justified to expect that the public gets high quality services at fair prices. To that end, and depending on market analysis, different regulation mechanisms can be envisaged to achieve this.

Amendment by Angelika Niebler

Amendment 29

Recital 17

(17) Sound public governance of the Galileo and EGNOS systems assumes firstly that there is a strict division of responsibilities between the European Community, ***the Supervisory Authority*** and the European Space Agency and, secondly, that the European Community, represented by the Commission, ensures the implementation of the programmes. The Commission must establish the appropriate instruments and possess the necessary resources, in particular in terms of assistance.

(17) Sound public governance of the Galileo and EGNOS systems assumes firstly that there is a strict division of responsibilities between the European Community and the European Space Agency and, secondly, that the European Community, represented by the Commission, ensures the implementation of the programmes. The Commission must establish the appropriate instruments and possess the necessary resources, in particular in terms of assistance.

Or. de

Justification

The task of the Supervisory Authority as laid down in Article 2 of Regulation (EC) No 1321/2004 was primarily to act as the licensing authority for the private undertakings which were originally to carry out the Galileo programmes. Following the failure of the consortium and the submission of the amended proposal for a regulation, this task has lapsed, and the Authority should therefore be abolished. The remaining tasks can also be undertaken by the Commission and the ESA.

Amendment by Angelika Niebler

Amendment 30
Recital 18

(18) The main role of the Supervisory Authority will be to assist the Commission in all matters which arise during the programmes. It must also manage the funds specifically allocated to it under the programmes or entrusted to it by the Commission in accordance with Article 54(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, as amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006. *deleted*

Or. de

Justification

The task of the Supervisory Authority as laid down in Article 2 of Regulation (EC) No 1321/2004 was primarily to act as the licensing authority for the private undertakings which were originally to carry out the Galileo programmes. Following the failure of the consortium and the submission of the amended proposal for a regulation, this task has lapsed, and the Authority should therefore be abolished. The remaining tasks can also be undertaken by the Commission and the ESA.

Amendment by Anne Laperrouze

Amendment 31
Recital 19

(19) The European Space Agency, which is the expert in technical matters, will conclude a multi-annual agreement with the European Community ***covering the technical aspects*** of the programmes. In order for the Commission, as representative of the European Community, to exercise its power of audit fully, the agreement must include the general conditions for managing the funds entrusted to the European Space

(19) The European Space Agency, which is the expert in technical matters, will conclude a multi-annual agreement with the European Community ***relating to*** the programmes. In order for the Commission, as representative of the European Community, to exercise its power of audit fully, the agreement must include the general conditions for managing the funds entrusted to the European Space Agency and provide that contracts

Agency and provide that contracts concluded under the agreement must follow Community rules on public contracts. Accordingly, due account must be taken of progress made so far and investments which have already been agreed as well, where appropriate, as agreements in force.

concluded under the agreement must follow Community rules on public contracts. Accordingly, due account must be taken of progress made so far, ***industrial expertise*** and investments which have already been agreed as well, where appropriate, as agreements in force.

Or. fr

Justification

The text refers to the establishment of a multi-annual agreement confined to technical aspects, including the general conditions for managing the funds.

A link should be established with the description of the ESA's role in Article 13, which should contain ESA obligations, particularly in terms of productivity, decision making, reporting and management of the industry.

Amendment by Anne Laperrouze

Amendment 32
Recital 19 a (new)

(19a) As the programmes will be financed by the European Community, public procurement under the programmes should comply with Community rules on public contracts and should aim, first and foremost, to control costs and mitigate risks and also to improve efficiency and decrease dependencies. It is desirable to introduce an element of competition into the programme and therefore any public procurement should be on the basis of dual-sourcing and regular competitive tendering wherever possible unless that would increase costs and cause time delays as a result of a need to adapt the designs and production methods of additional suppliers. 'Bottleneck' supplies and single-sourcing should, on the other hand, be minimised. Decisions, investments made by ESA and the EU during the definition and development phases of the Galileo programme as well as in the EGNOS

programme should be taken into account in the next tendering phase to ensure programme continuity and cost efficiency.

Or. en

Justification

For the purpose of avoiding confusion, it is important to make it clear that only the former achievements from both EGNOS and Galileo duly funded by either the Community and/or the European Space Agency receive due consideration. Other initiatives (i.e. not funded by the 2 above institutions) could mean more complexity, more risk and extra cost to the programme as well as create unacceptable distortions in the competitions that the Council require.

Amendment by Vladimír Remek

Amendment 33
Recital 19 a (new)

(19a) All work packages for the Full Operational Capability (FOC) of Galileo should be open to the maximum possible competition, in line with EU procurement principles; in order to ensure investment in space programmes, EU procurement should be more widely open to new entrants and SMEs, while ensuring technology excellence and cost effectiveness.

Or. xm

Justification

Emphasis must be placed on transparency in the awarding of public contracts, on openness and on support not just for well-established major 'players' but also for small and medium-sized businesses and new entrants.

Amendment by Nikolaos Vakalis

Amendment 34
Recital 19 a (new)

(19a) Special attention should be paid to

achieving the balanced participation of all Member States during the various phases of the Galileo project. It is also important that stakeholders in all Member States, especially small and medium sized enterprises, have opportunities to develop and innovate on the basis of the technological know-how arising from the Galileo procurement.

Or. en

Justification

Given the size and societal importance of the Galileo project, the Galileo public procurement principles should promote open access and fair competition throughout the overall industrial supply chain; accordingly, they should offer a chance to balanced participation of private sector players at all levels across the Member States during all the remaining phases of the project. SMEs should, in particular, have adequate opportunities to develop and innovate through the Galileo procurement.

Amendment by Angelika Niebler

Amendment 35

Recital 20

(20) The Commission should be assisted in implementing this Regulation by a committee named the "Committee on European GNSS Programmes". As sound public governance requires uniform management of the programmes, faster decision-making and equal access to information, ***representatives of the Administrative Board of the Supervisory Authority*** must be involved in the work of the Committee on European GNSS Programmes.

(20) The Commission should be assisted in implementing this Regulation by a committee named the "Committee on European GNSS Programmes". As sound public governance requires uniform management of the programmes, faster decision-making and equal access to information, ***European Parliament observers*** must be involved in the work of the Committee on European GNSS Programmes.

Or. de

Justification

In view of the significance and financial implications of the programmes, it is necessary for representatives of the European Parliament to monitor the work of the Committee on

European GNSS Programmes. This will ensure a better flow of information and greater transparency in relation to the public. Moreover, the role of the Supervisory Authority should be reconsidered in the light of the arrangements which are now being proposed for the implementation of the programmes.

Amendment by Anne Laperrouze

Amendment 36
Recital 21 a (new)

(21a) The European Community should be the owner of all tangible and intangible assets created or developed under the EGNOS and Galileo programmes. It should at all times during the programme be in a position to terminate the contract with any supplier or service provider. It should therefore not rely on any particular site over which it has no control or on any supplier from which it has no commitment that assets will not be shifted on to another site. The Commission should therefore present a proposal to the European Parliament and the Council, for the amendment of existing Community legislation, where appropriate. Until Galileo is up and running, and in order to meet its current investors requirements, it is desirable that the management and the exploitation of EGNOS is decoupled from Galileo until a merge between the two systems is possible. National and other non-Community initiatives intending to provide assets and/or services to the European Commission for the purpose of the programme shall be considered, provided that these assets are entirely transferred to the Commission at no cost, if it does not generate long-term commitments from the Commission and if it does not create any distortion with regard to the European dimension of the programme.

Or. en

Justification

The Commission must keep its power of negotiation at all time and to the least extent rely on sites and means fully under its control or at least with no exclusive rights allowing possible transfer at low cost if shown necessary.

It is factual that EGNOS is today close to being certified. It already provides permanent high quality signals all over Europe. For the purpose of efficiency, and in order to better prepare the floor to Galileo, it is important that the concerns of both programmes are decoupled and that EGNOS can be operated independently from the progresses of Galileo.

Amendment by Vladimír Remek

Amendment 37
Article 1, paragraph 3

The system established under the Galileo programme is an autonomous GNSS infrastructure consisting of a constellation of satellites and earth stations.

The system established under the Galileo programme is an autonomous GNSS infrastructure consisting of a constellation of satellites and ***a global network of*** earth stations.

Or. cs

Justification

The shadow rapporteur considers that the proposed wording more accurately reflects the way in which the proposed system will operate and the nature of its infrastructure.

Amendment by Umberto Guidoni

Amendment 38
Article 1, paragraph 3 a (new)

The European Community shall have the ownership of the EGNOS and GALILEO systems and all material and non-material assets created or built up under these programmes.

Or. it

Justification

The EGNOS and GALILEO systems are the pillars of the European satellite radionavigation system (GNSS) and will be run under the sole responsibility of the European Community. It is therefore essential that the Community have the ownership of both systems.

Amendment by Anne Laperrouze

Amendment 39
Article 4, paragraph 4

4. Agreements or conventions concluded by the European Community shall lay down the conditions and detailed rules **for any third-country involvement in providing additional funding to** the programme.

4. **Third countries may be involved in providing additional funding to the programme.** Agreements or conventions concluded by the European Community **with such third countries, pursuant to Article 300(3) of the EC Treaty,** shall lay down the conditions and detailed rules **of their involvement, as well as their rights and long-term obligations under** the programme.

Or. en

Justification

Former involvement of third countries have shown to be poorly managed, i.e. without any commitment from them. It is therefore important to make it clear that third countries can join Galileo only under certain conditions.

Amendment by Teresa Riera Madurell, Inés Ayala Sender

Amendment 40
Article 4, paragraph 4

4. Agreements or conventions concluded by the European Community shall lay down the conditions and detailed rules for any third-country involvement in providing additional funding to the programme.

4. **The Member States may provide additional funding for the programme. Third countries and international organisations may also provide additional funding for the programme.** Agreements or conventions concluded by the European Community shall lay down the conditions and detailed rules for any third-country involvement in providing additional funding

for the programme.

Or. es

Justification

Galileo has been designed as a global system. The Member States may provide additional funding for the programme, which also requires the involvement of third countries and international organisations if it is to be a global success. The agreements or conventions which serve to regulate such involvement pursuant to the Treaty should incorporate terms, conditions and rules which clearly define the nature of that involvement.

Amendment by Anne Laperrouze

Amendment 41
Article 5

The operation of the EGNOS system consists mainly of infrastructure management, maintenance, constant improvement and renewal of the system, certification and standardisation operations relating to the programme and marketing the system.

The operation of the EGNOS system consists mainly of infrastructure management, maintenance, constant improvement and renewal of the system, certification and standardisation operations relating to the programme and marketing the *system's signals*.

The transfer of ownership of the system to the Commission shall occur at the time of the signing of an agreement with its current owners, shall recognise the investments agreed to by the latter and shall ensure the continuity of the high performance levels currently observed and of industrial contracts currently in progress for a period to be determined.

Or. fr

Justification

It will be the Commission's responsibility to meet the current EGNOS investors' expectations and to ensure the continuity of the programme by taking full advantage of EGNOS' contracts and experienced industrial operators.

Amendment by Anne Laperrouze

Amendment 42

Article 6

1. The European Community shall finance the operation of EGNOS, without prejudice to any contribution from the private sector.

2. The operation of EGNOS shall initially, as a priority, be the subject of a public service contract with the private sector. It shall then gradually become an integral part of the commercial operating phase of Galileo.

1. The European Community shall finance the operation of EGNOS, without prejudice to any contribution from the private sector.

2. The European Community shall certify the system and its critical services to users.

3. The European Community shall support promotion measures and the sale of EGNOS supplements in order to extend the area covered by EGNO and its export derivatives, with a view to preparing the arrival of Galileo in those parts of the world.

4. The European Community shall be responsible for marketing assignments and the establishment of pre-operational activities with a view to launching future Galileo contracts.

5. The operation of EGNOS shall initially, as a priority, be the subject of a public service contract with the private sector. It shall then gradually become an integral part of the commercial operating phase of Galileo.

Or. fr

Justification

The Community has sole responsibility for certifying EGNOS and Galileo systems. In view of the nature of the services expected, it will also be responsible for launching services which are public by nature and export support measures.

Amendment by Anne Laperrouze

Amendment 43

Article 6 a (new)

Article 6a

Ownership of assets

The European Community shall seek to become the owner of all tangible and intangible assets created or developed under the programmes and shall enter in negotiation with current stakeholders (e.g. EGNOS) accordingly.

Or. en

Justification

The Commission cannot exercise any ownership until it has acquired the rights to do so. EGNOS for example, today is partly owned by Air Traffic Management authorities in Europe.

Amendment by Vladimír Remek

Amendment 44
Article 6 a (new)

Article 6a

Ownership

The European Community shall be the owner of all tangible and intangible GALILEO assets created or developed during the development and deployment phases.

Or. xm

Justification

The fact the European Community is to be the owner of all tangible and intangible property created and produced at the development and deployment stage is the logical outcome of the change made to the originally proposed financing method, as a result of which the EC assumed full responsibility and the private sector was excluded.

Amendment by Anne Laperrouze

Amendment 45
Article 7, point c)

(c) activities relating to the operation of the systems as well as actions preceding or in preparation for commercial operation.

(c) activities relating to the operation of the **EGNOS and Galileo** systems as well as actions preceding or in preparation for commercial operation.

Or. fr

Amendment by Anne Laperrouze

Amendment 46

Article 8, paragraph 1 a (new)

1a. The amount referred to in paragraph 1 shall be conditional on effective procurement procedures and contract negotiation which shall obtain best value for money, performance completion, programme seamless continuity, risk management and adherence to timetable.

Or. en

Justification

It is important to mention that Galileo will be deployed and delivered incrementally. Like EGNOS and all complex systems, the system will become operational after several software releases and adjustments have been implemented until full performances are achieved and certification completed. The reference to seamless continuity refers to the Council resolution on the matter seeking to avoid losing past achievement during the IOV phase which has just been put back on track.

Amendment by Etelka Barsi-Pataky

Amendment 47

Article 8, paragraph 4

4. The sum specified in the first paragraph of this Article does not take account of unforeseen financial obligations which the European Community may be obliged to bear, in particular those relating to the public ownership of the systems. ***In this event the Commission shall present appropriate proposals*** to the European Parliament and to

4. The sum specified in the first paragraph of this Article does not take account of unforeseen financial obligations which the European Community may be obliged to bear, in particular those relating to the public ownership of the systems. ***The Commission shall therefore present a proposal*** to the European Parliament and to the Council ***in***

the Council.

2010, together with its mid-term review, in order to enable the budgetary authority to decide, for the financial programming period starting in 2014 and for the period up to the end of the programme, on the public funds and commitments, including any obligations, needed for the commercial operating phase, deriving from its responsibility relating to the public ownership of the system.

Or. en

Amendment by Anne Laperrouze

Amendment 48
Article 8, paragraph 4

4. The sum specified in the first paragraph of this Article does not take account of unforeseen financial obligations which the European Community may be obliged to bear, in particular those relating to the public ownership of the systems. *In this event the Commission shall present **appropriate proposals** to the European Parliament and to the Council.*

4. The sum specified in the first paragraph of this Article does not take account of unforeseen financial obligations which the European Community may be obliged to bear, in particular those relating to the public ownership of the systems *and markets fostering. The Commission shall **therefore** present **a proposal** to the European Parliament and to the Council **in 2010, together with its mid-term review, in order to enable the budgetary authority to decide, for the financial programming period starting in 2014 on the funding needed, including any obligations which the European Community may be obliged to bear relating to the public ownership and market fostering.***

Or. en

Justification

Alike technical aspects have been mentioned in the report, it is necessary to also mention the legal, financial and markets considerations attached to Galileo.

Amendment by David Hammerstein

Amendment 49

Article 9

Operating income

Income from the operation of the systems shall be collected by the European Community and shall be paid into the Community budget and be allocated to the European GNSS programmes. ***If the income allocated proves to be significantly more than expected, the principle of allocation shall be reviewed.***

A revenue-sharing mechanism may be provided for in any contract(s) concluded with the private sector.

Revenues

Income from the operation of the systems shall be collected by the European Community and shall be paid into the Community budget and ***may*** be allocated to the European GNSS programmes, ***subject to approval by Council and the European Parliament.***

A revenue-sharing mechanism may be provided for in any contract(s) concluded with the private sector.

Revenue-sharing mechanisms or price-cap mechanisms may also be provided for in any contracts concluded with the private sector as regards revenues from the provision of services under the Galileo system in order to ensure that customers receive high quality services at fair prices and/ or to develop new public services as described in Annex I.

Or. en

Justification

Since the PPP failed because the private sector had difficulties in assuming the risks, and Galileo will now be fully financed by public funding, it is no more than justified to expect that the public gets high quality services at fair prices. To that end, and depending on market analysis, different regulation mechanisms can be envisaged to achieve this.

Amendment by Angelika Niebler

Amendment 50

Article 10, paragraph 1

Public governance of the programmes is based on the principle of a strict division of responsibilities between the European

Public governance of the programmes is based on the principle of a strict division of responsibilities between the European

Community, represented by the Commission, *the European GNSS Supervisory Authority (hereinafter "the Supervisory Authority")* and the European Space Agency.

Community, represented by the Commission, and the European Space Agency.

Or. de

Justification

The task of the Supervisory Authority as laid down in Article 2 of Regulation (EC) No 1321/2004 was primarily to act as the licensing authority for the private undertakings which were originally to carry out the Galileo programmes. Following the failure of the consortium and the submission of the amended proposal for a regulation, this task has lapsed, and the Authority should therefore be abolished. The remaining tasks can also be undertaken by the Commission and the ESA.

Amendment by Anne Laperrouze

Amendment 51
Article 10, paragraph 2

The European Community, represented by the Commission, shall ensure the implementation of the programmes, without prejudice to Regulation (EC) No 1321/2004. To this end the Commission shall establish the appropriate instruments and ensure it possesses the resources needed to accomplish *this task*. ***It may call on independent experts to assist it in monitoring the management of the programmes.*** It may also be assisted by experts from the Member States and carry out financial and technical audits.

The European Community, represented by the Commission, shall ensure the implementation of the programmes, without prejudice to Regulation (EC) No 1321/2004. To this end the Commission shall establish the appropriate instruments and ensure it possesses the resources ***and rights*** needed to accomplish ***its tasks***. It may also be assisted by experts from the Member States and carry out financial and technical audits.

Or. en

Justification

It is useful to mention that not only the Commission needs to rely on appropriate resources, but also it could need to acquire rights to fulfil its mission.

Article 12

deleted

***The role of the Supervisory Authority
(GSA)***

Without prejudice to the tasks conferred upon it under Regulation (EC) No 1321/2004, the Supervisory Authority shall support the Commission in all matters concerning the programmes, wherever its assistance is requested by the Commission. It shall manage and inspect the use of the funds specifically granted to it by the European Community under the programmes. These funds shall be made available to the Supervisory Authority through a delegation decision in accordance with Article 54(2) of Regulation (EC, Euratom) No 1605/2002 and the provisions of Regulation (EC) No 1321/2004.

The Commission shall conclude a delegation agreement with the Supervisory Authority on the basis of the delegation decision provided for in the previous paragraph. The delegation agreement shall stipulate the general conditions for the management of the funds entrusted to the Supervisory Authority, in particular the actions to be implemented, the relevant financing, management procedures and monitoring and inspection measures.

Or. de

Justification

The task of the Supervisory Authority as laid down in Article 2 of Regulation (EC) No 1321/2004 was primarily to act as the licensing authority for the private undertakings which were originally to carry out the Galileo programmes. Following the failure of the consortium and the submission of the amended proposal for a regulation, this task has lapsed, and the Authority should therefore be abolished. The remaining tasks can also be undertaken by the Commission and the ESA.

Amendment by Teresa Riera Madurell, Inés Ayala Sender

Amendment 53
Article 12 a (new)

Article 12a

Principles upon which procurement relating to the Galileo deployment stage shall be based

During the Galileo deployment stage the rules on Community public procurement shall be based - inter alia - on the following principles:

a) competitive tendering for all the packages in a single procedure by means of which any independent legal entity or a group represented for this purpose by a legal entity which forms part of a group may tender for the role of main contractor for a maximum of two of the six main work packages;

b) at least 40% of the overall value of the activities must be subcontracted by means of competitive tendering at various levels to enterprises other than those belonging to the groups whose entity is the main contractor for one of the main work packages.

Or. es

Justification

The Regulation should incorporate and regulate the procurement policy which is to be followed. Furthermore, Annex 1 should include the work packages into which the procurement is to be divided and which are subject to a 40% subcontracting rate.

Amendment by Anne Laperrouze

Amendment 54
Article 13, paragraph 2

The agreement shall lay down the general

The ***multi-annual*** agreement shall lay down

conditions for the management of the funds entrusted to the European Space Agency, and in particular the actions to be implemented, the relevant financing, management procedures and monitoring and inspection measures, measures applicable in the event of inadequate performance of the contract and rules regarding the ownership of tangible and intangible property.

the general conditions for the management of the funds entrusted to the European Space Agency, and in particular the actions to be implemented (*e.g. the system incremental deployment plan*), the relevant financing, management procedures and monitoring and inspection measures, measures applicable in the event of inadequate performance of contracts and rules regarding the ownership of *all* tangible and intangible property.

Or. en

Justification

It is important to mention that Galileo will be deployed and delivered incrementally. Like EGNOS and all complex systems, the system will become operational after several software releases and adjustments are implemented until certification can be completed.

Amendment by Etelka Barsi-Pataky

Amendment 55

Article 13, paragraph 2 a (new)

2a. The multi-annual agreement shall also stipulate the following:

(a) The European Space Agency shall apply the Community rules on public procurement.

(b) The European Space Agency shall ensure transparent and timely information on and shall clearly communicate the applicable procurement rules, selection criteria and any other related items.

(c) Public procurement under the multi-annual agreement shall aim to achieve open access and fair competition throughout the industrial supply chain and to encourage balanced participation on the part of private-sector actors, including in particular SMEs across the Member States. The European Space Agency shall avoid creating or reinforcing dominant positions.

(d) The European Space Agency shall organise contracts relating to infrastructure into main segment packages and additional work packages.

(e) Parallel, dual-source procurement shall be used wherever possible with the aim of reducing technological and industrial risks and dependencies and improving overall control of programme costs and schedules.

(f) Where dual-source procurement is not possible, the contract shall provide that the contractor, on subcontracting, must apply the Community rules on public contracts and respect the aims laid down in this Article. The scope and the value of the subcontracts to be awarded by the main contractor shall be part of the contract in the case of single source procurement.

(g) In awarding contracts the European Space Agency shall take due account of decisions, investments and achievements, as far as is relevant, during the definition and development phases of the Galileo programme.

Or. en

Amendment by Angelika Niebler

Amendment 56

Article 13, paragraph 2 a (new)

The multi-annual agreement shall also make provision for the following:

(a) The European Space Agency shall apply the Community provisions governing public procurement.

(b) The European Space Agency shall in sufficiently good time provide transparent information concerning the rules which apply to the award of contracts, the selection criteria and all other associated details, and shall communicate it in such a

way that it cannot be misunderstood.

(c) When invitations to tender are issued under the terms of the multi-annual agreement, efforts shall be made to ensure free access and fair competition throughout the industrial supply chain, and balanced participation by private-enterprise actors in all Member States shall be promoted. The European Space Agency must prevent dominant positions from arising or becoming accentuated.

(d) The European Space Agency shall divide contracts relating to infrastructure into contracts relating to the main elements and contracts relating to additional work.

(e) Contracts shall be awarded in parallel, with procurement from two sources, below segment level in every case where this is possible, in order to reduce technological and industrial risks and dependences and to improve control over programme costs and time schedules overall. If the services of an undertaking from a third country are called upon as a result, the other undertaking must be based in the European Union and be awarded an equal share of the contracted work.

(f) If it is not possible to award contracts so as to ensure procurement from two sources, it shall be laid down in the contract that when, subcontracting, the contractor must apply Community rules on public procurement and respect the provisions of this article. The scope and value of the subcontracts to be awarded by the prime contractor shall be indicated in the contract if procurement is only from one source.

(g) In negotiating contracts, the European Space Agency shall take due account of decisions, contracts already concluded, investments and services from the definition and development phases of the Galileo Programme, insofar as they are relevant.

Justification

Die gemeinschaftlichen Rechtsvorschriften über öffentliche Aufträge müssen angewendet werden. Offener Zugang und fairer Wettbewerb sind in der gesamten industriellen Lieferkette zu gewährleisten, damit die Bildung von Monopolen verhindert wird. Bei den Ausschreibungen im Rahmen des Programms ist ein Ansatz erforderlich, mit dem eine ausgewogene Beteiligung europäischer Unternehmen sichergestellt wird, weil sie bereits in der Entwicklungsphase wertvolles Know-how erworben haben. In allen Mitgliedstaaten müssen die Akteure und insbesondere kleine und mittlere Unternehmen die Möglichkeit haben, sich an den Ausschreibungen im Rahmen von Galileo zu beteiligen.

Amendment by Anne Laperrouze

Amendment 57

Article 13, paragraph 2 a (new)

The multi-annual agreement shall also stipulate the following:

(a) The European Space Agency shall apply the Community rules on public procurement.

(b) The European Space Agency shall ensure transparent and timely information on the programme overall road map and on each of its individual milestones (i.e. programme increments) and on their execution. In particular, it shall clearly communicate the applicable procurement rules, selection criteria and any other related items.

(c) Public procurement under the multi-annual agreement shall aim to secure programme continuity, reuse of past achievements, proper risk management, cost effectiveness and achieve open access and fair competition throughout the industrial supply chain and to encourage balanced participation on the part of private-sector actors across the Member States. The European Space Agency shall avoid creating or reinforcing dominant positions while securing long term supplies,

industry competitiveness, highest possible technology standards and state of the art solutions.

(d) The European Space Agency shall organise contracts relating to infrastructure into main segment packages and additional work packages.

(e) Parallel, dual-source procurement shall be used wherever possible with the aim of reducing technological and industrial risks and dependencies, improving overall control of programme costs and schedules and mitigating programme risks.

(f) Where dual-source procurement is not possible, the contract shall provide that the contractor, on subcontracting, must apply the Community rules on public contracts and respect the aims laid down in this Article.

(g) In negotiating contracts the European Space Agency shall take due account of former decisions, investments and achievements from the Community and from the European Space Agency, as far as is relevant, during the definition and development phases of the Galileo and EGNOS programmes.

(h) The European Space Agency shall organise its management so that its decision-making processes and reporting are swift and efficient.

Or. en

Justification

The Transport Council resolution secures programme continuity, value for money, long terms perspective, high level of performance and quality while maintaining the risk within reasonable borders.

For the purpose of avoiding confusion, it is important to make it clear that only the former achievements from both EGNOS and Galileo duly funded by either the Community and/or the ESA receive due consideration. Other initiatives (i.e. not funded by the 2 above institutions) could mean more complexity, more risk and extra cost to the programme as well as create unacceptable distortions in the competitions that the Council require.

Amendment by Den Dover

Amendment 58

Article 13, paragraph 2 a (new)

The multi-annual agreement shall also stipulate the following:

(a) The European Space Agency shall apply the Community rules on public procurement.

(b) The European Space Agency shall ensure transparent and timely information on and shall clearly communicate the applicable procurement rules, selection criteria and any other related items.

(c) Public procurement under the multi-annual agreement shall aim to achieve open access and fair competition throughout the industrial supply chain and to encourage balanced participation on the part of private-sector actors across the Member States. The European Space Agency shall avoid creating or reinforcing dominant positions.

(d) The European Space Agency shall organise contracts relating to infrastructure into main segment packages and additional work packages.

(e) Parallel, dual-source procurement shall be used wherever possible with the aim of reducing technological and industrial risks and dependencies and improving overall control of programme costs and schedules.

(f) Where dual-source procurement is not possible, the contract shall provide that the contractor, on subcontracting, must apply the Community rules on public contracts and respect the aims laid down in this Article. The scope and the value of the subcontracts to be awarded by the main contractor shall be part of the contract in the case of single source procurement.

(g) In awarding contracts the European

Space Agency shall take due account of decisions, investments and achievements, as far as is relevant, during the definition and development phases of the Galileo programme.

Or. en

Amendment by Umberto Guidoni

Amendment 59
Article 13, paragraph 3 a (new)

Public service contracts shall be aimed at guaranteeing conditions of free competition at all stages of industrial supply and promoting balanced participation of the private sector, particularly for SMEs in the various Member States, and shall avoid creating or strengthening dominant positions.

As far as possible, steps should be taken to obtain supplies from parallel sources, with a view to reducing technological and industrial risks and improving overall control of the programmes' costs and timeframes.

Or. it

Justification

It is essential to ensure that Community rules on public service contracts are applied. It is important to ensure conditions of free access and competition throughout the industrial supply chain in order to avoid monopolies. The programme requires public service contract rules that will guarantee the balanced participation of European industry, in particular small and medium-sized enterprises (SMEs), which must have an opportunity to take part in the Galileo tender procedures.

Amendment by Nikolaos Vakalis

Amendment 60
Article 13, paragraph 3 a (new)

The balanced participation of all Member States shall be ensured during the various phases of the project. Additionally, stakeholders in all Member States, especially small and medium sized enterprises, shall have opportunities to develop and innovate on the basis of the technological know-how arising from the Galileo procurement.

Or. en

Justification

Given the size and societal importance of the Galileo project, its public procurement principles should promote open access and fair competition throughout the overall industrial supply chain across all MS. SMEs should, in particular, have adequate opportunities to develop and innovate through the Galileo procurement. This is rightly pointed out by the rapporteur in the justification of amendment 16. For the sake of clarity and transparency, the need for balanced participation of stakeholders, including SMEs, in all MS should also be explicitly stated in the Regulation.

Amendment by Den Dover

Amendment 61

Article 13, paragraph 3 a (new)

The Commission shall monitor and evaluate the European Space Agency's procurement procedures, competition and the relevant EU markets and shall report to the European Parliament and the Council on these matters at quarterly intervals.

Or. en

Justification

The Article does not require the Commission to report to the European Parliament and the Council on the regular progress of the Galileo project. The above procedure will ensure that the EP and the Council are able to monitor the development of the procurement procedures of the Galileo project, and exercise in full their shared political responsibility for the programme.

Amendment by Vladimír Remek

Amendment 62
Article 14, paragraph 2

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| 2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. | 2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. |
|---|---|

Or. cs

Justification

According to the proposal for a Regulation the Committee on European GNSS Programmes is to adopt implementing rules, in particular by approving annual and multi-annual work programmes. The Member States should be involved to the utmost extent in the adoption of such important implementing decisions. The most suitable comitological procedure for that purpose is the regulatory one laid down in Article 5 of Decision 1999/468. The committee established by means of Regulation No 680/2007 (on financial aid in the field of the trans-European transport and energy networks), which amongst other things takes decisions concerning the annual and multi-annual work programme for the financing of the TEN-T, is also a regulatory one.

Amendment by Angelika Niebler

Amendment 63
Article 14, paragraph 4

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| <p>4. <i>Representatives of the Administrative Board of the Supervisory Authority shall be involved in the work of the Committee on European GNSS Programmes.</i></p> <p>Representatives of the Programme Board on Satellite Navigation of the European Space Agency may also be involved in the work of the Committee on European GNSS Programmes under the conditions laid down in its rules of procedure.</p> | 4. Representatives of the Programme Board on Satellite Navigation of the European Space Agency may also be involved in the work of the Committee on European GNSS Programmes under the conditions laid down in its rules of procedure. <i>The European Parliament shall have observer status.</i> |
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Or. de

Justification

In view of the significance and financial implications of the programmes, it is necessary for representatives of the European Parliament to monitor the work of the Committee on European GNSS Programmes. This will ensure a better flow of information and greater transparency in relation to the public. Moreover, the role of the Supervisory Authority should be reconsidered in the light of the arrangements which are now being proposed for the implementation of the programmes.

Amendment by Den Dover

Amendment 64

Article 14, paragraph 4 a (new)

4a. The Commission shall report to the European Parliament and the Council at quarterly intervals on the physical progress made against the programmes drawn up for the Galileo project, the financial implications and the market opportunities.

Or. en

Justification

The current paragraph 4 a (new) does not require the Commission to report to the European Parliament and the Council on the regular progress of the Galileo project. The above procedure will ensure that the EP and the Council are able to monitor the development of the Galileo project, and exercise in full their shared political responsibility for the programme.

Amendment by Anne Laperrouze

Amendment 65

Annex, Objectives of the European GNSS programmes, bullet 2

• To offer a safety of life service (SoL) aimed at users for whom security is essential and which meets the requirements of the aeronautical, maritime **and** rail sectors. This service also fulfils the requirement for continuity and includes an integrity message alerting the user to any failure in the system.

• To offer a safety of life service (SoL) aimed at users for whom security is essential and which meets the requirements of the aeronautical, maritime, rail **and road** sectors. This service also fulfils the requirement for continuity and includes an integrity message alerting the user to any failure in the system.

Or. fr

Amendment 66
Annex a (new)

Amendments by Parliament

Annex a
Procurement Structure

Main Work Packages contracted by ESA*	Description
<i>Systems Work Package</i>	
1. System Engineering support	A contract is placed with a mixed industrial team to support all system design choices and decisions. This industrial team supports ESA all along the implementation process, up to and including system specifications, performance analysing, testing, verification and validation of all elements of the infrastructure.
<i>Supply Work Packages</i>	
2. Ground mission infrastructure completion	The completion of the ground mission elements (provision of the navigation signals and messages) by means of an upgrade of the development infrastructure and deployment of the additional facilities up to a full operational capability status.
3. Ground Control infrastructure completion	The completion of the ground control elements (control of the individual satellites) by means of an upgrade of the development infrastructure and deployment of the additional facilities up to a full operational capability status.
4. A total of 26 Satellites:	
a. Satellites A	An initial batch of 10-12 satellites.
b. Satellites B	A second batch of 6-8 satellites, based on demonstrated performance in the delivery of Batch A
c. Satellites C	A third batch of 6-8 satellites, based on demonstrated performance in the delivery of Batch B
5. Launchers	A contract for launch services with reliance on two or, if possible, more technically independent families of launchers.
<i>Operations Work Package</i>	
6. Operations	<p>Operations activities are contracted to an operator. The operator coordinates the entire Galileo operations in order to ensure a successful navigation mission. The concept of operations for the Galileo system is based on two Galileo Satellite Control Centres (GCS/GMS) in Fucino and Oberpfaffenhofen; and a Safety-of-Life Centre in Madrid operated on a 24/7 basis responsible for Safety-of-Life multimodal services and applications. The Safety-of-Life Centre will include both the necessary modules to guarantee the proper levels of integrity, continuity and availability of the system based on a GMS in cold back-up mode and a GCS with identical physical configuration and equivalent functional attributes to the other GCS. Through the centres, the operator is tasked to achieve the mission performances, to control the operational status and ensure the maintenance of the complete ground infrastructure and associated communication network, and to manage its maintenance.</p> <p>The Commission takes note that the Safety-of-Life Centre may decide to evolve to a fully qualified, equivalent Galileo Satellite Control Centre, the assets of which will be owned by the Community. The investment of this evolution will be without additional costs to the agreed Community budget for the European GNSS programmes for the period 2007-2013. Whilst not affecting the operational capabilities of Oberpfaffenhofen and Fucino, the Commission in that case will ensure that this Centre will be fully operationally qualified as a Galileo Satellite Control Centre by the end of 2013, subject</p>

	that it is able to meet all the necessary requirements applicable to all centres and will be included in the Galileo network of the three centres mentioned above.
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* If performance in the delivery of the work packages, or the batches therein, is not satisfactory appropriate adjustments may be implemented, where possible, including competitive tendering of remaining work.

Additional Work Packages contracted by ESA	Description
Test receivers	Multiple-source contracts for test receiver manufacturing.
Service contracts	Contracts with the various service providers and centres for proper functioning of the overall system architecture, such as Time Service Provider, Geodesy Service Provider, Search and Rescue interfaces.
Infrastructure supply elements	Infrastructure elements that are provided independent of the above service contracts, such as the Galileo Security Monitoring Centre to be operated by the GSA.
Additional Work package contracted by the Commission	Description
Performance Measurements	A contract for independent measurement of Key Performance Indicators

Or.

Justification

There is no point in incorporating the procurement policy which is to be followed (in which reference is made to the splitting of the deployment stage into work packages) without actually incorporating those packages.