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DRAFT REPORT

on the proposal for a decision of the European Parliament and of the Council on the detailed rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (COM(2010)0550 – C7-0318/2010 – 2010/0282(COD))

Committee on Industry, Research and Energy

Rapporteur: Norbert Glante

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 decision of the European Parliament and of the Council on the detailed rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (COM(2010)0550 – C7-0318/2010 – 2010/0282(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0550),
 - 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 (C7-0318/2010),
 - 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 ... 2011¹,
 - having regard to the opinion of the Committee of the Regions of ... 2011²,
 - 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 opinion of the Committee on Foreign Affairs (A7-0000/2010),
1. Adopts its position at first reading hereinafter set out;
 2. 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;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a decision

Recital 2

Text proposed by the Commission

Amendment

(2) In the conclusions it adopted at its

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¹ OJ C ... /Not yet published in the Official Journal.

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meeting on 12 October 2006, the Transport Council asked the Commission to actively pursue its work on drawing up the PRS access policy, in order to be able to define the conditions under which the Member States would organise and manage their user groups, on the basis of preparatory work, and to submit its proposals in due course for the Council's consideration and approval. ***In its conclusions, the Transport Council pointed out that Member States' use of the PRS would be optional and that the operating costs of the service would be borne by users on a non-commercial basis.***

meeting on 12 October 2006, the Transport Council asked the Commission to actively pursue its work on drawing up the PRS access policy, in order to be able to define the conditions under which the Member States would organise and manage their user groups, on the basis of preparatory work, and to submit its proposals in due course for the Council's consideration and approval. The PRS ***is used by Member States on an optional basis***. The operating costs of the service ***should*** be borne by ***participants*** on a non-commercial basis.

Or. de

Justification

Participants, and not users, should bear the operating costs of the PRS.

Amendment 2

Proposal for a decision

Recital 3

Text proposed by the Commission

(3) The Council ***has*** stated on several occasions that the system resulting from the Galileo programme is a civilian system under civilian control, that is, it was created in accordance with civilian standards based on civilian requirements and under the control of the European Union institutions.

Amendment

(3) The ***European Parliament and the Council have*** stated on several occasions that the system resulting from the Galileo programme is a civilian system under civilian control, that is, it was created in accordance with civilian standards based on civilian requirements and under the control of the European Union institutions.

Or. de

Amendment 3

Proposal for a decision

Recital 4

Text proposed by the Commission

(4) Of the various services offered by European satellite navigation systems, the PRS is both the most secure and the most sensitive. It must ensure service continuity for its participants, even in the most serious crisis situations. The consequences of infringing the security rules when using this service are not restricted to the user concerned, but could potentially extend to other users. *Use* and management of the PRS is therefore the joint responsibility of Member States in order to protect the security of the European Union and their own security. Consequently, access to the PRS must be strictly limited to certain categories of user which are subject to continuous monitoring.

Amendment

(4) Of the various services offered by European satellite navigation systems, the PRS is both the most secure and the most sensitive. It must ensure service continuity for its participants, even in the most serious crisis situations. The consequences of infringing the security rules when using this service are not restricted to the user concerned, but could potentially extend to other users. ***Participation in*** and management of the PRS is therefore the joint responsibility of Member States in order to protect the security of the European Union and their own security. Consequently, access to the PRS must be strictly limited to certain categories of user which are subject to continuous monitoring.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. de

Justification

Throughout the text it would be helpful to draw a clear distinction between participants (Council, Commission, Member States, authorised agencies, non-member countries, international organisations) and users (authorised natural persons or legal entities).

Amendment 4

Proposal for a decision

Recital 7

Text proposed by the Commission

(7) Furthermore, in order to promote worldwide the use of European technology

Amendment

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for secure government satellite radio navigation applications, the terms and conditions under which certain non-member countries and international organisations may *use* the PRS should be laid down – compliance with security requirements being in all cases essential.

for secure government satellite radio navigation applications, the terms and conditions – *including payment of a contribution towards the costs* – under which certain non-member countries and international organisations may *participate in* the PRS should be laid down – compliance with security requirements being in all cases essential.

Or. de

Justification

The EU should retain the option of requiring non-member countries or international organisations to contribute to the costs in return for their participation in the PRS.

Amendment 5

Proposal for a decision

Recital 10

Text proposed by the Commission

(10) In the case of management and supervisory bodies, the arrangement whereby each participant would designate a "Competent PRS Authority" responsible for managing and supervising users would appear to be the best way of effectively managing PRS use, by facilitating relations between the various stakeholders responsible for security and ensuring permanent supervision of users (in particular national users) in compliance with the common minimum standards. It should be noted that a Competent PRS Authority would not necessarily be linked to a particular Member State and that several different participants could designate one and the same Competent PRS Authority.

Amendment

(10) In the case of management and supervisory bodies, the arrangement whereby each participant would designate a "Competent PRS Authority" responsible for managing and supervising users would appear to be the best way of effectively managing PRS use, by facilitating relations between the various stakeholders responsible for security and ensuring permanent supervision of users (in particular national users) in compliance with the common minimum standards. It should be noted that a Competent PRS Authority would not necessarily be linked to a particular Member State and that several different participants could designate one and the same Competent PRS Authority. *Notwithstanding this arrangement, each Member State should be responsible for actions carried out on its own territory, e.g. checks on exports.*

Or. de

Justification

The allocation of responsibility must be clarified.

Amendment 6

Proposal for a decision

Recital 13

Text proposed by the Commission

(13) With regard to receiver manufacture and security, security requirements make it necessary for this task to be entrusted only to a Member State which has ***access to the*** PRS or to undertakings established on the territory of a Member State which has ***access to the*** PRS. Furthermore, the receiver manufacturer must have been duly authorised in advance by the European GNSS Agency established by means of Regulation (EC) No xxx/2010 and must comply with the rules laid down by its internal approval authority. It is the responsibility of the Competent PRS Authorities to continuously monitor compliance both with the approval standards issued by the approval authority and with specific technical requirements stemming from the minimum common standards.

Amendment

(13) With regard to receiver manufacture and security, security requirements make it necessary for this task to be entrusted ***at present*** only to a Member State which has ***appointed a Competent PRS Authority*** or to undertakings established on the territory of a Member State which has ***appointed a Competent PRS Authority***. Furthermore, the receiver manufacturer must have been duly authorised in advance by the European GNSS Agency established by means of Regulation (EC) No xxx/2010 and must comply with the rules laid down by its internal approval authority. It is the responsibility of the Competent PRS Authorities to continuously monitor compliance both with the approval standards issued by the approval authority and with specific technical requirements stemming from the minimum common standards. ***The Commission should consider whether in future, subject to a guarantee of reciprocity, authorised undertakings from non-EU countries should also be allowed to become involved in the manufacture of PRS receivers.***

Or. de

Justification

With a view to the worldwide dissemination of European technology, the EU should retain the option of allowing non-member countries to become involved in the manufacture of PRS receivers in the future, provided that there are no security risks involved.

Amendment 7

Proposal for a decision Recital 15

Text proposed by the Commission

(15) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, ***both in order to define the rules on the protection of classified information concerning the PRS, and to be able to amend the minimum common standards.***

Amendment

(15) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, in order to be able to amend the minimum common standards.

Or. de

Justification

Consistency with amended Article 4.

Amendment 8

Proposal for a decision Article 4 – paragraph 2

Text proposed by the Commission

2. The Commission shall lay down, by means of delegated acts in accordance with Articles 12, 13 and 14, rules relating to the protection of classified information concerning the PRS, in particular those relating to a natural or legal person's need for access to classified information in order to be able to perform a specific function or task. Each Member State shall notify the Commission of the specific provisions it adopts in order to implement this paragraph.

Amendment

2. Each Member State shall ensure that security regulations ensuring a degree of protection at least equivalent to that guaranteed by the Commission's rules on security¹ and by the security regulations of the Council² apply to all natural persons resident on its territory and all legal entities established on its territory that deal with EU classified information concerning the PRS.

2a. Member States shall immediately inform the Commission of the adoption of national security regulations as referred to in paragraph 1.

2b. Natural persons resident in third countries and legal entities established in third countries may deal with EU classified information concerning the PRS only where they are subject, in those countries, to security regulations 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 regulations of the Council set out in the Annex to Decision 2001/264/EC. The security regulations of the ESA shall be considered as equivalent to those rules and regulations. The equivalence of security regulations applied in a third country may be recognised in an agreement with that country.

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

² *Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations (OJ L 101, 11.4.2001, p. 1).*

Or. de

Justification

Application by analogy of Article 14 of Regulation (EC) No 683/2008 on EGNOS and Galileo. The provisions in question already provide adequate protection for classified information.

Amendment 9

Proposal for a decision Article 6 – paragraph 8

Text proposed by the Commission

8. Where a Competent PRS Authority does not comply with the minimum common standards, the Commission may require that authority to use the technical resources

Amendment

8. Where a Competent PRS Authority does not comply with the minimum common standards, the Commission may, ***taking due account of the subsidiarity principle – and, if necessary, after obtaining further***

of the European GNSS Agency.

specific information concerning the requirements referred to in paragraph 6 – issue a recommendation. The Commission may require that authority to use the technical resources of the European GNSS Agency. Within three months, the PRS participant concerned shall either carry out the Commission’s recommendation or request or propose other changes with a view to complying with the minimum common standards and implement them by agreement with the Commission.

If, once this three-month period has expired, the relevant PRS Authority still does not comply with the minimum common standards, the Commission shall inform the Council and the European Parliament and take appropriate measures to deal with the consequences, e.g. appoint the European GNSS Agency as the Competent PRS Authority for the PRS participant concerned. The costs shall be borne by the PRS participant concerned.

Or. de

Justification

An escalation mechanism should be laid down in order to ensure that all PRS Authorities comply with the minimum standards. If, when this service is used, the security regulations are breached, this can also have consequences for other users.

Amendment 10

Proposal for a decision Article 8 – paragraph 1

Text proposed by the Commission

1. Any Member State which **uses the** PRS may either manufacture PRS receivers and the associated security modules itself, or else assign the task to undertakings established on the territory of a Member State which **uses the** PRS. The Council or

Amendment

1. Any Member State which **has appointed a Competent** PRS Authority may either manufacture PRS receivers and the associated security modules itself, or else assign the task to undertakings established on the territory of a Member State which

the Commission may assign the task of manufacturing PRS receivers and the associated security modules to a Member State which *uses the* PRS, or to undertakings established on the territory of a Member State which *uses the* PRS.

has appointed a Competent PRS Authority. The Council or the Commission may assign the task of manufacturing PRS receivers and the associated security modules to a Member State which *has appointed a Competent PRS Authority*, or to undertakings established on the territory of a Member State which *has appointed a Competent PRS Authority*.

Or. de

Justification

This amendment makes it possible for Member States which are not participating in the PRS, but which have appointed a Competent PRS Authority, to become involved in the manufacture of PRS receivers.

Amendment 11

Proposal for a decision Article 12 – paragraph 1

Text proposed by the Commission

1. The Commission shall be empowered for an indefinite period of time to adopt the delegated acts referred to in **Articles 4 and 6**.

Amendment

1. The power to adopt delegated acts referred to in **Article 6** shall be conferred on the Commission for an indeterminate period of time.

Or. de

Justification

Consistency with amended Article 4.

EXPLANATORY STATEMENT

The European satellite navigation programme Galileo provides five services: the open service, the commercial service, the safety-of-life service, the search-and-rescue service and the public regulated service. The proposal under consideration here concerns the public regulated service (PRS), which is restricted to government-authorized users for sensitive applications (such as critical infrastructure, transport, internal and external security and emergency services). These applications call for a high level of precision and reliability, for which reason the PRS uses powerful, encrypted signals.

The Commission proposal creates a detailed legal framework governing access to the PRS and the administration and supervision of users, the aim being to guarantee the security of the system and the protection of information. Since certain PRS-related applications may be politically and strategically sensitive, and with a view to ensuring the requisite high degree of security, great care needs to be taken when establishing this legal framework, which includes a joint, harmonised procedure for user authorisation by the participants. Although the PRS is not due to become operational until 2014, it is important that the requisite legal framework should be established in advance, so that the Member States and other actors have sufficient time to establish the various monitoring mechanisms and meet the mandatory security standards.

The Commission proposal lays down procedures whereby PRS participants (the Member States on an optional basis, the Council, the Commission and, subject to certain conditions, EU agencies, non-member countries and international organisations) can authorise selected PRS users to own or use a PRS receiver. The proposal encompasses:

- The requirement that every PRS participant should appoint a Competent PRS Authority to manage and supervise all users authorised to manufacture, own or use PRS receivers;
- The establishment of common minimum standards which must be complied with by all participants;
- The establishment of an EU-wide authorisation procedure and supervisory mechanism for the manufacture of PRS receivers and their security module;
- The establishment of strict rules governing the export of the equipment and technology needed for PRS use;
- Conditions governing possible participation by international organisations and non-member countries in the PRS.

Your rapporteur welcomes the Commission proposal. The PRS is one of the key services offered by Galileo, one which will guarantee continuity of service and security even at times of serious crisis. Since non-compliance with the security provisions can also have implications for other participants and users (in other words, security loopholes could lead to unauthorised, unfriendly use of the PRS), the use and management of and supervision of access to the PRS should be based on common standards. Your rapporteur takes the view that the proposed arrangements designed to guarantee security strike the requisite balance between the definition of common minimum standards and enforcement of the rules at EU level, on the one hand, and decentralisation of the supervision currently provided by the Member States, on the other.

Your rapporteur would like to highlight a number of points which may be particularly relevant to further discussion of the issues:

- The proposal should draw a clearer distinction between participants in and users of the PRS. It is important that the relevant definitions should be used consistently.
- Participation in the PRS is optional for each Member State. By the same token, the Member States take individual decisions about the way the PRS is to be used and whether users should pay for this service (in that connection, it should be borne in mind that GPS is free). Since it is possible that not all the Member States will participate in the PRS from the start, it would only be fair that only those Member States, institutions and other (international) organisations taking part should bear the PRS operating costs generated at national level.
- Although for the moment – not least for security reasons – it is necessary to restrict the manufacture of PRS receivers to EU territory, in future production might be extended to other countries, such as Switzerland, Norway or the USA. Naturally enough, in that event appropriate security agreements would have to be concluded laying down the conditions governing such authorisation, with a view to guaranteeing compliance with the common minimum standards.
- Since breaches of the security rules also have implications for other participants and could compromise security in general, a clear procedure should be introduced to cover cases in which a Competent PRS Authority fails to comply with the common minimum standards. The ultimate purpose of this procedure should be to guarantee that the standards are met throughout the EU.