



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Foreign Affairs*

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**2010/0282(COD)**

21.1.2011

## **DRAFT OPINION**

of the Committee on Foreign Affairs

for the Committee on Industry, Research and Energy

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 offered by the  
global navigation satellite system established under the Galileo programme  
(COM(2010)0550 – C7-0318/2010 – 2010/0282(COD))

Rapporteur: Maria Eleni Koppa

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## **SHORT JUSTIFICATION**

The Commission has presented to the European Parliament and the Council a proposal for a decision which aims at defining the rules of access to the Public Regulated Service (hereinafter PRS), a service of the Galileo programme restricted to government-authorised users and involving sensitive applications which require a high level of service continuity.

The present draft opinion focuses mainly on security-related issues, underlining at the same time the need for a more pronounced involvement of the European Commission in monitoring the application of the minimum common standards laid down by the given regulation. It puts forward an enhanced system of penalties to secure a centralised control of its implementation. The Commission, as manager of the GNSS programmes of the EU, must have the authority to determine penalties in the event of non-compliance with the minimum standards. The Member States, on their part, will determine what penalties are applicable when national provisions enacted pursuant to this decision are violated. In enacting these provisions, the Member States must secure a high degree of protection of classified information.

Given the sensitive character of PRS and the constant need for protection of classified information, the Commission shall ensure that the competent PRS Authorities comply constantly with the minimum common standards. It is important, therefore, that audits, controls or inspections are carried out on a regular basis.

The draft opinion emphasises the importance of PRS, as a useful tool in the framework of the CSDP operations and calls for the development of capacities in order to preventively protect critical infrastructure and secure the smooth functioning of the system, particularly in the event of international crisis.

The drafts person aligns with the Commission on the proposal that also non member states and international organisations may have access to PRS, following the conclusion of international agreements with the EU, in accordance with the procedure provided for in article 218 of the Treaty on the Functioning of the European Union. The drafts person underlines that this procedure implies consent by the European Parliament and that this agreement will determine the consequences in the case of infringement of its provisions. All penalties should be effective, proportionate and dissuasive in order to guarantee the security of the system and a high level of service continuity.

An effective export control of dual-use technology and items listed in European and international export control regimes should be guaranteed.

## **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 the decision

#### Recital 1

*text proposed by the Commission*

(1) 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)<sup>7</sup> makes provision in its Annex that the specific objectives of the Galileo programme are to ensure that the signals emitted by the system can be used in particular to offer a public regulated service (hereinafter "PRS") restricted to government-authorised users, for sensitive applications which require a high level of service continuity.

*Amendment*

(1) 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)<sup>7</sup> makes provision in its Annex that the specific objectives of the Galileo programme are to ensure that the signals emitted by the system can be used in particular to offer a public regulated service (hereinafter "PRS") restricted to government-authorised users, for sensitive applications which require ***effective access control and*** a high level of service continuity.

Or. en

#### *Justification*

*The proposed addition is to highlight the need to effectively control the access to the sensitive PRS applications.*

## Amendment 2

### Proposal for the decision

#### Recital 3 a (new)

*text proposed by the Commission*

*Amendment*

***(3a) Galileo is an important programme that enhances the independence and the security of the EU. Its PRS, in particular, is a useful tool for situational awareness and search-and-rescue tasks in the framework of the CSDP operations, as well as for the protection of critical infrastructures in the EU;***

Or. en

### *Justification*

*This amendment underlines the importance of Galileo and its PRS for the independence and security of the EU. It stresses, in particular, the role of PRS in the framework of the CSDP operations.*

## **Amendment 3**

### **Proposal for the decision Recital 9**

*text proposed by the Commission*

(9) It is important in this connection that the ***Member States determine*** the system of penalties applicable in the event of non-compliance with the obligations stemming from this Decision, and that ***they ensure*** that those penalties are applied. The penalties must be effective, proportionate and dissuasive.

*Amendment*

(9) It is important in this connection that the ***Commission determines*** the system of penalties applicable in the event of non-compliance with the obligations stemming from this Decision, and that ***it ensures*** that those penalties are applied. The penalties must be effective, proportionate and dissuasive.

Or. en

### *Justification*

*This amendment aims at the better balancing of the powers with regard to the definition of the penalties. Galileo is a European programme and non-compliance with the minimum standards of the regulation can lead to operational problems affecting other member states and credibility of Galileo services. Therefore, a centralised system of penalties must be secured.*

## **Amendment 4**

### **Proposal for the decision Recital 12 a (new)**

*text proposed by the Commission*

*Amendment*

***(12a) Every PRS participant should take every necessary measure to secure the smooth functioning of the system, ensuring the continuity and non-disruption of signals. Capabilities at Member State level, as well as in the framework of CSDP, should be developed in order to prevent spoofing attacks***

***against the encrypted PRS signal and ensure the security of critical infrastructure.***

Or. en

#### *Justification*

*This Amendment encourages the development of capabilities in tackling threats to the smooth functioning of PRS, particularly in the event of an international crisis. Article 2 of Council Joint Action 2004/552/CFSP refers to action in the event of a such unpleasant situation, rather than preventing the latter from taking place.*

### **Amendment 5**

#### **Proposal for the decision recital 14**

##### *text proposed by the Commission*

(14) With regard to ***export control, exports outside the European Union*** of equipment or technology relating to PRS use must be restricted to those non-member countries which are duly authorised to access the PRS under an international agreement with the European Union

##### *Amendment*

(14) ***In general terms, dual-use technology must be subject to effective control when exported from the European Union. The EU member states, when considering export-control requests for GNSS-related items from their industries, must comply with the provisions of European and international export control regimes, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.*** With regard to equipment or technology relating to PRS use, ***in particular, exports*** must be restricted to those non-member countries which are duly authorised to access the PRS under an international agreement with the European Union.

Or. en

#### *Justification*

*This Amendment aims at clarifying that RPS relates to dual-use technology. Therefore, the member states and their industries have to comply with the obligations laid down by the European and international export control regimes.*

## Amendment 6

### Proposal for the decision Article 2 – paragraph 2

*text proposed by the Commission*

2. The Council, the Commission and the Member States shall have unlimited and uninterrupted access to the PRS worldwide.

*Amendment*

2. The Council, the Commission and **all** the Member States shall have unlimited and uninterrupted access to the PRS worldwide.

Or. en

*Justification*

*This amendment aims at underlining that all the Member States have right of access to the PRS, provided that they wish to benefit from it and that they comply with the minimum security standards (as specified in other articles).*

## Amendment 7

### Proposal for the decision Article 2 - paragraph 3 a (new)

*text proposed by the Commission*

*Amendment*

***3a. The Member States that make use of PRS in security-related sectors shall do so in line with the principles and the priorities of the EU, as defined in Chapter 1 of Title V of the Treaty on European Union and specified in the European Security Strategy;***

Or. en

*Justification*

*This amendment aims at clarifying that use of PRS in defence-related sectors must be in line with the principles guiding the EU and act according to its declared priorities.*

## Amendment 8

### Proposal for the decision Article 2 - paragraph 4

*text proposed by the Commission*

*Amendment*

4. PRS users shall be natural or legal persons duly authorised by the PRS participants to own or use a PRS receiver.

4. PRS users shall be **governmental bodies**, natural or legal persons duly authorised by the PRS participants to own or use a PRS receiver.

Or. en

*Justification*

*This Amendment aims at clarifying that PRS users are governmental bodies.*

## **Amendment 9**

### **Proposal for the decision**

#### **Article 2 - paragraph 7**

*Draft legislative resolution*

*Amendment*

7. An agreement laying down the terms and conditions of the detailed rules for use of the PRS by the non-member country or international organisation has been concluded between the European Union and the non-member country or international organisation in accordance with the procedure provided for in Article **128** of the Treaty on the Functioning of the European Union.

7. An agreement laying down the terms and conditions of the detailed rules for use of the PRS by the non-member country or international organisation has been concluded between the European Union and the non-member country or international organisation in accordance with the procedure provided for in Article **218** of the Treaty on the Functioning of the European Union, **with the consent of the European Parliament**.

Or. en

*Justification*

*This Amendment corrects the number of the article of the Treaty in the English version of the proposal, reminding that article 218 implies the consent of the European Parliament (Article 218, paragraph 6 (a) of the Treaty on the Functioning of the EU).*

## **Amendment 10**

### **Proposal for the decision**

#### **Article 4 - paragraph 2**

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*Draft legislative resolution*

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. 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, ***ensuring a degree of protection at least equivalent to that guaranteed by the Commission's rules on security set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom and by the security regulations of the Council set out in the Annex to Council Decision 2001/264/EC.***

Or. en

*Justification*

*This amendment aims at ensuring a high level protection of classified information at Member State level.*

**Amendment 11**

**Proposal for the decision  
Article 5 a (new)**

*Draft legislative resolution*

*Amendment*

***Article 5a***

***The Commission shall determine what penalties are applicable when the provisions of the present Decision are infringed by any of the PRS participants.***

Or. en

### *Justification*

*This amendment aims at the better balancing of the powers in the definition of the penalties: the Commission shall determine penalties for the infringement of the present Decision by PRS participants. In case this amendment is adopted, it will be listed as article 5, paragraph 1.*

## **Amendment 12**

### **Proposal for the decision Article 5**

#### *Draft legislative resolution*

Member States shall determine what penalties are applicable when national provisions enacted pursuant to this Decision are infringed. ***The penalties shall be effective, proportionate and dissuasive.***

#### *Amendment*

Member States shall determine what penalties are applicable when national provisions enacted pursuant to this Decision are infringed.

Or. en

### *Justification*

*The deleted part is re-introduced in following amendment in order to cover all the penalties, according to the new system proposed by the drafts person. If amendment n. 11 is adopted, the present amendment should be listed as article 5, paragraph 2.*

## **Amendment 13**

### **Proposal for the decision Article 5 b (new)**

#### *Draft legislative resolution*

#### *Amendment*

#### ***Article 5b***

***In the case of non-member countries or international organisations, the agreement mentioned in article 2 (7) will provide for the penalties in case of infringement.***

Or. en

### *Justification*

*This amendment specifies that the agreement mentioned in article 2 (7) will provide for the*

*penalties in case of infringement by third countries and international organisations. If amendments n. 11 and 12 are adopted, the present amendment should be listed as article 5, paragraph 3.*

## **Amendment 14**

### **Proposal for the decision Article 5 c (new)**

*Draft legislative resolution*

*Amendment*

#### **Article 5c**

***The penalties shall be effective,  
proportionate and dissuasive.  
Endangering the security of the system  
can lead to the lift of access authorisation.***

Or. en

#### *Justification*

*This amendment underlines the importance of guaranteeing the security of the system, stressing that a penalty can result in lifting of access authorisation. If amendments n. 11, 12 and 13 are adopted, the present amendment should be listed as article 5, paragraph 4.*

## **Amendment 15**

### **Proposal for the decision Article 6 - paragraph 7**

*Draft legislative resolution*

*Amendment*

7. The Commission shall, with the help of the Member States and the European GNSS Agency, ensure that the Competent PRS Authorities comply with the minimum common standards, in particular by carrying out audits or inspections.

7. The Commission shall, with the help of the Member States and the European GNSS Agency, ensure that the Competent PRS Authorities comply with the minimum common standards, in particular by carrying out audits or inspections ***on a regular basis.***

Or. en

#### *Justification*

*This amendment stresses the need for the control (audit/inspections) to be carried on a regular basis.*

