REPORT


Committee on Industry, Research and Energy

Rapporteur: Etelka Barsi-Pataky
Symbols for procedures

* Consultation procedure
  majority of the votes cast
**I Cooperation procedure (first reading)
  majority of the votes cast
**II Cooperation procedure (second reading)
  majority of the votes cast, to approve the common position
  majority of Parliament’s component Members, to reject or amend
  the common position
*** Assent procedure
  majority of Parliament’s component Members except in cases
  covered by Articles 105, 107, 161 and 300 of the EC Treaty and
  Article 7 of the EU Treaty
***I Codecision procedure (first reading)
  majority of the votes cast
***II Codecision procedure (second reading)
  majority of the votes cast, to approve the common position
  majority of Parliament’s component Members, to reject or amend
  the common position
***III Codecision procedure (third reading)
  majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the
Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in **bold italics**. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.
<table>
<thead>
<tr>
<th>CONTENTS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION</td>
<td>5</td>
</tr>
<tr>
<td>EXPLANATORY STATEMENT</td>
<td>19</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON BUDGETS</td>
<td>22</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM</td>
<td>27</td>
</tr>
<tr>
<td>PROCEDURE</td>
<td>36</td>
</tr>
</tbody>
</table>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION


(Codecision procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to the European Parliament and the Council (COM(2004)0477)\(^1\),

– having regard to Article 251 and Article 156 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0087/2004),

– having regard to Rule 51 of its Rules of Procedure,

– having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Budgets and the Committee on Transport and Tourism (A6-0212/2005),

1. Approves the Commission proposal as amended;

2. Points out that the appropriations indicated in the legislative proposal beyond 2006 are subject to the decision on the next multi-annual financial framework;

3. Calls on the Commission, once the next multi-annual financial framework is adopted, to present, if appropriate a proposal to adjust the financial reference amount of the programme.

4. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;

5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1

\(^1\) OJ C ... / Not yet published in OJ.

RR\357781EN.doc 5/37 PE 357.781v03-00 EN
Recital 1 (new)

(-1) European satellite radio-navigation policy is presently implemented through the GALILEO and EGNOS programmes.

Justification

Presently Galileo and EGNOS form the European GNSS satellite radio-navigation structure. The two systems will be independent and complementary, building up a system with the highest level of reliability and accuracy, that enables the offering of services requiring full continuity.

Amendment 2

Recital 1a (new)

(1a) Establishing this satellite radio navigation infrastructure is a project which clearly exceeds the technical and financial capabilities of any Member State acting alone. The GALILEO and EGNOS programmes thus fully meet the requirements of the subsidiarity principle since the Community level is the most appropriate level for action; this is an example of the added value that Europe can generate when it has clearly defined its objectives and resources.

Justification

This amendment lays down the legal justification for a community action that fulfils the subsidiarity principle.

Amendment 3

Recital 1b (new)

(1b) EGNOS is a programme aiming at augmenting the American GPS and Russian GLONASS signals for reliability purposes across a broad geographical area. It is independent from and complementary to GALILEO.
Justification

EGNOS is a recognised tool for the market success of Galileo services. The EGNOS integration provides cost efficiency, proper marketing and financial advantages for the Galileo programme. See Amendment 1 as well.

Amendment 4
Recital 5

(5) The GALILEO programme comprises a definition phase, a development phase, a deployment phase and a commercial operating phase. The deployment phase should start in 2006, and, after two years' overlap with the commercial operating phase, it should finish in 2010. The commercial operating phase should start in 2008, and the system should become fully operational in 2010.

Justification

In order to avoid any further delays that could jeopardise the success of the programme, it is important to lay down the time frame of the phases concerned.

Amendment 5
Recital 8 a (new)

(8a) 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* sets up the European GNSS Supervisory Authority (hereinafter referred to as 'the Supervisory Authority').


Justification

The institutional framework by setting up the European GNSS Supervisory Authority as a Community agency was established by the said Council Regulation in order to guarantee the public supervision of the deployment and commercial operating phases of the European GNSS programmes. The Supervisory Authority, among others, arranges regulatory duties and safeguard the public co-financing.
Amendment 6
Recital 10

(10) According to the Council’s decision to limit to 1/3 the public contribution to the deployment phase and the contributions already foreseen by the current financial perspectives, the Community contribution for the deployment phase should reach € [500] million in the new financial perspectives.

(10) According to the Council’s decision to limit to 1/3 the public contribution to the deployment phase and the contributions already foreseen by the current financial perspectives, the Community contribution for the deployment phase should reach € [500] million at 2004 prices in the new financial perspectives.

Justification

This amendment seeks to clarify that the community contributions shall be in constant prices.

Amendment 7
Recital 11

(11) Taking into account the special nature of the market for satellite navigation services and the marketing of these services as well as the guarantee of provision of these services in the interest of the public sector, it will be necessary to provide some exceptional public financing during the first years of the commercial operating phase. Moreover, in its conclusions of 25-26 March 2002, and its meeting of 8-9 March 2004, the Council specifically foresaw the use of Community funds to finance the commercial operating phase. The foreseen amount of the necessary Community funding should be in the region of € [500] million.

(11) Taking into account the special nature of the market for satellite navigation services and the marketing of these services as well as the guarantee of provision of these services in the interest of the public sector, it will be necessary to provide some exceptional public financing during the first years of the commercial operating phase. Moreover, in its conclusions of 25-26 March 2002, and its meeting of 8-9 March 2004, the Council specifically foresaw the use of Community funds to finance the commercial operating phase. The foreseen amount of the necessary Community funding should be in the region of € [500] million at 2004 prices.

Justification

See justification for Amendment to Recital 10.
(12) It is therefore necessary to foresee a sum of €1 billion from the Community budget to finance the deployment and the commercial operating phases of GALILEO for the period 2007-2013.

(12) It is therefore necessary to foresee a sum of €1 billion at 2004 prices from the Community budget to finance the deployment and the commercial operating phases of the programmes for the period 2007-2013, with its own budget line in the Community budget, thereby enabling the budgetary authority to link the funding to the meeting of deadlines for the various programme phases.

Justification

As it is already foreseen in the draft Financial Perspectives, a specific budget line has been granted to the Galileo programme at the TEN chapter. Therefore the annual budgetary procedure will enable the Parliament to oversee the keeping of the deadlines. After the integration of EGNOS, the financing of the operation phase will not be separated any more. See also Amendment 3 and 7.

Amendment 9
Recital 12 a (new)

(12a) In cases where financial guarantees in excess of the above mentioned budgetary allocation are to be undertaken by the Community either directly or indirectly, they should be subject to approval by the Parliament and Council in accordance with the applicable budgetary rules.

Justification

Taking into account the specific nature of the programme, especially the needs of a Public Private-Partnership, it is very likely that the Community will have to undertake financial guarantees, which must be made known to the Parliament and Council, so that they can fulfil their budgetary responsibilities.

Amendment 10
Recital 12 b (new)

(12b) In cases where liability
commitments in excess of the above mentioned budgetary allocation are to be undertaken by the Community either directly or indirectly, they should be subject to approval by the Parliament and Council in accordance with the applicable budgetary rules.

**Justification**

*Taking into account the specific nature of the programme, especially the needs of a Public Private-Partnership, it is very likely that the Community will have to undertake liability commitments, which must be made known to the Parliament and Council, so that they can fulfil their budgetary responsibilities.*

**Amendment 11**
Recital 13 a (new)

(13a) A profit-sharing mechanism should be established in order to ensure the repayment of the Community contribution to the deployment and commercial operating phases.

**Justification**

*As it is anticipated that the programme will be highly profitable, it is important to make sure that arrangements are in place so that the Community contribution is definitely repaid.*

**Amendment 12**
Recital 13 b (new)

(13b) The concession holder should be entitled to receive the revenues deriving from the exploitation of licences and intellectual property rights for system components, ownership of which should rest with the Supervisory Authority.

**Justification**

*It is fundamental to state that the ownership of the Intellectual Property Rights and licences stays with the Supervisory Authority, but the revenues, generated from the exploitation of these rights can form the income of the concession holder. Since the concession contract is for a limited period, after the termination of the contract the Supervisory Authority can continue the exploitation of the IPR rights by itself or by entering into a contract with a new concession*
(14) The missions of the Supervisory Authority include managing the public funds allocated to the European Satellite radionavigation programme as well as following the financial management of this programme so as to optimise the use of public money. In addition, the Supervisory Authority carries out budgetary responsibilities given to it by the Commission in line with the requirements of article 54 paragraph 2, point (b) of Regulation (CE, Euratom) n° 1605/2002 of the Council of 25 June 2002 on the financial regulation applicable to the Community budget.


Justification

According to Council Regulation (EC) No 1321/2004 of 12 July 2004 Article 2 1. (b) the Supervisory Authority has been entrusted with managing the funds specifically allocated to it and monitoring the overall financial management of the programmes. Taking into account the specific financial situation of the programmes, the Parliament, by having an observer status at the Administrative Board of the Supervisory Authority, could only be able to accomplish its budgetary roles.
system.

Justification

It is a missing reference to the 7th FP which specifically takes account of the needs of research and development linked to the Galileo programme.

Amendment 15
Recital 14 b (new)

(14b) The proposal for a decision of the European Parliament and of the Council establishing a Competitiveness and Innovation Framework Programme (2007-2013) provides also for the involvement of European SMEs in developing innovations with the support of Community funding, which will contribute to the development of the European GNSS satellite navigation system.

Justification

This amendment seeks to fill a missing gap in the development of the competitiveness and innovation framework programme that would enable industrial applications linked to the European GNSS satellite navigation system to be developed by European SMEs.

Amendment 16
Recital 16

(16) This Regulation establishes, for the deployment and the commercial operating phases of the programme, a financial envelope constituting the main reference for the budgetary authority, according to point 33 of the interinstitutional agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and the improvement of the budgetary procedure.
Justification

This amendment seeks to clarify the present situation, namely that the European GNSS programme is implemented through the Galileo and EGNOS programmes. See also Amendment 1.

Amendment 17
Article 1

The present Regulation defines the modalities of the financial contribution of the Community for the implementation of the deployment and commercial operating phases of the European satellite radionavigation GALILEO, hereafter entitled “programme”.

Justification

In order to avoid any further delays that could jeopardise the success of the programme, it is important to lay down the time frame of the phases concerned. This amendment also seeks to clarify the present situation, namely that the European GNSS programme is implemented through the Galileo and EGNOS programmes. See also Amendment 1 and 4.

Amendment 18
Article 2

The Community contribution to the programme allocated by this Regulation is granted with the aim of co-financing:

a) activities related to the deployment phase, covering the construction and the launch of satellites as well as the complete setting up of the terrestrial infrastructure;

b) the first series of activities related to the launch of the commercial operating phase, covering the management of the infrastructure composed by satellites and the associated ground stations, as well as the maintenance and updating of the system.

The Community contribution to the programmes allocated by this Regulation is granted with the aim of co-financing:

a) activities related to the deployment phase, covering the construction and the launch of satellites as well as the complete setting up of the terrestrial infrastructure;

b) if necessary, the first series of activities related to the launch of the commercial operating phase, covering the management of the infrastructure composed by satellites and the associated ground stations. The maintenance and updating of the system.
Justification

This amendment seeks to clarify the present situation, namely that the European GNSS programme is implemented through the Galileo and EGNOS programmes. However, as it is stated in Recital (11) of the draft regulation, the funding of the commercial operating phase by Community contribution means an exceptional funding, and will only be realised if it is needed.

Amendment 19
Article 3, paragraph 1

The financial amount necessary for the implementation of the actions foreseen in article 2 of this Regulation for the period from 1st January 2007 to 31 December 2013 is [1 billion €].

Justification

The indicative financial framework necessary for the implementation of the actions foreseen in article 2 of this Regulation is set at [1 billion €] at 2004 prices for the period of 7 years from 1st January 2007.

Amendment 20
Article 3 a (new)

Article 3a

In cases where financial guarantees in excess of the budgetary allocation indicated above are to be undertaken by the Community either directly or indirectly, including the concession contract, they shall be subject to approval by the Parliament and Council in accordance with the applicable budgetary rules.

Justification

Taking into account the specific nature of the programme, especially the needs of a Public
Private-Partnership, it is very likely that the Community will have to undertake financial guarantees, which must be made known to the Parliament and Council, so that they can fulfil their budgetary responsibilities.

Amendment 21
Article 3 b (new)

**Article 3b**

In cases where liability commitments in excess of the budgetary allocation indicated above are to be undertaken by the Community either directly or indirectly, including the concession contract, they shall be subject to approval by the Parliament and Council in accordance with the applicable budgetary rules.

**Justification**

Taking into account the specific nature of the programme, especially the needs of a Public Private-Partnership, it is very likely that the Community will have to undertake liability commitments, which must be made known to the Parliament and Council, so that they can fulfil their budgetary responsibilities.

Amendment 22
Article 3 c (new)

**Article 3c**

A profit-sharing mechanism shall be established in order to ensure the repayment of the Community contribution to the deployment and commercial operating phases.

**Justification**

As it is anticipated that the programme will be highly profitable, it is important to make sure that arrangements are in place so that the Community contribution is definitely repaid.

Amendment 23
Article 3 d (new)
Article 3d

The concession holder shall be entitled to receive the revenues deriving from the exploitation of licences and intellectual property rights for system components, ownership of which shall rest with the Supervisory Authority.

Justification

It is fundamental to state that the ownership of the Intellectual Property Rights and licences stays with the Supervisory Authority, but the revenues, generated from the exploitation of these rights can form the income of the concession holder. Since the concession contract is for a limited period, after the termination of the contract the Supervisory Authority can continue the exploitation of the IPR rights by itself or by entering into a contract with a new concession holder.

Amendment 24
Article 4, paragraph 1

The GALILEO Supervisory Authority ensures, in accordance with article 54, paragraph 2, point b) of Regulation (CE, Euratom) n° 1605/2002 of the Council of 25 June 2002 on financial regulation, and the requirements of Regulation (CE) n° ..../2004, the management and control of the use of Community funds allocated to the European programme of satellite radionavigation.

The European GNSS Supervisory Authority ensures, in accordance with article 54, paragraph 2, point b) of Regulation (CE, Euratom) n° 1605/2002 of the Council of 25 June 2002 on financial regulation, and the requirements of Regulation (EC) No 1321/2004 the management and control of the use of Community funds allocated to the European programmes of satellite radio navigation.

Justification

According to Council Regulation (EC) No 1321/2004 of 12 July 2004 an European GNSS Supervisory Authority was established, and not a Galileo Supervisory Authority. The adequate wording must be reflected in the subsequent regulations. Taking into account the specific financial situation of the programmes, the Parliament, by having an observer status at the Administrative Board of the Supervisory Authority, could only be able to accomplish its budgetary roles.

Amendment 25
Article 4, paragraph 1 a (new)

Taking into account the specific nature of the programmes, the European
Parliament, in order to be able to fulfil its budgetary role, shall have observer status on the Administrative Board of the Supervisory Authority.

Justification

According to Council Regulation (EC) No 1321/2004 of 12 July 2004 an European GNSS Supervisory Authority was established, and not a Galileo Supervisory Authority. The adequate wording must be reflected in the subsequent regulations. Taking into account the specific financial situation of the programmes, the Parliament, by having an observer status at the Administrative Board of the Supervisory Authority, could only be able to accomplish its budgetary roles.

Amendment 26
Article 4, paragraph 2

Operational credits necessary for the financing of the Community contribution are being granted to the GALILEO Supervisory Authority, through an agreement, in accordance with the requirements of article 2, point e) of Regulation (CE) n° ……./2004.

Justification

According to Council Regulation (EC) No 1321/2004 of 12 July 2004 an European GNSS Supervisory Authority was established, and not a Galileo Supervisory Authority. The adequate wording must be reflected in the subsequent regulations. Taking into account the specific financial situation of the programmes, the Parliament, by having an observer status at the Administrative Board of the Supervisory Authority, could only be able to accomplish its budgetary roles.

Amendment 27
Article 4, paragraph 3

The amount of each annual subsidy is determined on the basis of the work programme of the Supervisory Authority approved by its Administrative Board, in accordance with the procedure foreseen in article 6 of Regulation (CE) n° ……./2004.

The amount of each annual subsidy shall be decided in the framework of the EU budgetary procedure, taking into account the work programme of the Supervisory Authority approved by its Administrative Board, in accordance with the procedure foreseen in article 6 of Regulation (EC) No 1321/2004, and within the limits of the applicable Financial Perspective.
Justification

It should be made very clear that the annual amount is being allocated not on the basis of "work programme" of the Supervisory Authority but on the basis of the procedure foreseen in the Treaties, i.e. the annual Community budgetary procedure.

Amendment 28

Article 6

The Commission will ensure the implementation of the present Regulation and report regularly to the European Parliament and the Council.

Every year, upon presentation of the preliminary draft budget, the Commission will present a report to the European Parliament and the Council on the implementation of the programme. In 2007, a mid-term review shall be carried out in order to inform the Council and Parliament of the progress reached by that time.

Justification

This amendment seeks to clarify the annuality of the reporting requirement. This annual process enables the Parliament to follow the implementation of the programme, and to fulfil its budgetary roles.
EXPLANATORY STATEMENT

The Galileo programme

Galileo is a new European infrastructure thus Galileo is a strategically important programme for Europe. Galileo is the first satellite positioning and navigation system specifically for civil purposes world wide. The independent satellite-radio navigation and positioning capability offers enhanced services for the public sector and the commercial sector in several fields, such as transport, agriculture, environmental policy, border control. It affects the everyday life of the citizens by offering better services in navigation, telecommunication, banking services, and security questions.

The Galileo programme fits perfectly into the Lisbon strategy, by creating a significant number of jobs in Europe, enhancing the competitiveness of Europe by the developed technology and know-how. It is also important to stress that the Galileo programme grants an added community value, no single Member State having wished to develop such a project alone. Galileo services will be a primary component in future high-tech industries comprising exciting new markets and opportunities.

The Galileo programme forms the so far first and biggest European Public-Private-Partnership, having the European Community involved.

The European Parliament has given its full support to the programme. Its last report adopted on 31 March, 2004 the Parliament supported the Commission proposal to establish the legal basis of the structures for an efficient and reliable management of the European satellite-radio navigation programme.

The subject of this report is the proposal for a regulation of the European Parliament and the Council on the implementation of the deployment and commercial operating phases of the European programme of satellite radionavigation.

The Commission proposal

The Galileo programme has now reached an advanced stage of maturity and goes well beyond the framework of a simple research project. It is necessary to place it on a specific legal tool, better able to satisfy its needs and respond to the requirement for good financial management. As a result, a Community Regulation is necessary to enable the implementation of the deployment and the commercial operating phases of the programme.

The financing of the deployment and the commercial operating phases must be secured in order to ensure the contribution to the programme. The programme has taken a dimension which goes beyond the sectoral policies, therefore a clear budgetary framework is necessary.

The following four matters had to be settled prior:

1) The structures for the management of the system are established. Council Regulation (EC)

2) The agreement with the United States was signed on 26 June 2004 which expressly provides a total interoperability of the European and American system.

3) The definition of the services offered has been already laid down.

4) According to the contribution from the private sector the Galileo Joint Undertaking will select one of the candidates for the concession. The concession contract has to be signed at the end of 2005 in close liaison with the Supervisory Authority as a licensing authority.

Integration of the EGNOS - European GNSS Satellite System

The EGNOS early-integration is favoured by all players in the programmes, namely the EU Commission, the Galileo Joint Undertaking and the concession bidders as well. The early-integration would quarantined cost-savings for the operator, and by giving the two systems (EGNOS and Galileo) to the same hands, the two programmes will not be competitors, but complementary, offering constant services that relay on two systems.

The Community funding

The cost of the deployment phase is estimated at EUR 2.1 billion. Since each of the short listed consortiums has undertaken to bear two-thirds of this cost, EUR 700 million will be needed from the Community budget in order to fund the phase. The operational phase will be funded by the private sector but it will be necessary to provide some exceptional public funding during the first years of the operational phase.

In order to ensure funding from the Community budget, the proposal provides for a financial contribution of EUR 1 billion for the period from 1 January 2007 to 31 December 2013. EUR 500 million are assigned to the funding of the deployment phase, which should also receive EUR 200 million under the current financial perspective for 2006, and EUR 500 million are earmarked for the funding of the first years of the operational phase.

Income from third countries

Several third countries are particularly keen to participate in the Galileo programme, including financially. Cooperation agreements were signed with China on 30 October 2003 and with Israel on 13 July 2004. The third countries associated with the Galileo programme represent a good market development opportunity.

The rapporteur's proposals

Financing of the programme

As it has been stated earlier, the programme will be realised through a Public-Private-Partnership with a private concession holder, which form is basically new for the Community. The PPP form means a share of costs, responsibly, liabilities and market risk, and has a solid
guarantee commitment result, but it is important to stress that the Supervisory Authority shall be the owner of all tangible and intangible assets, Intellectual Property Rights and licences. This is the first time when the Community undertakes such financial commitments and runs a project with these financial obligations. So it is therefore important for the Parliament, as one of the EU institutions responsible for the community budget to be fully informed about the financial background of the programme and all the commitments to be undertaken in relation.

Your rapporteur suggests, that taking into account the specific nature of a Public-Private-Partnership, it is important to regulate the following questions in the community legislation:

- 1 billion euros at 2004 prices shall be necessary for the implementation of the actions foreseen in the legislative act.
- It is very likely that the Community will have to undertake (either directly, or indirectly through the Supervisory Authority) financial guarantee commitments. The Parliament and the Council, as Budgetary Authorities will have to be informed about these commitments adequately, and the commitments will have to pass the necessary approval procedure from the Community institutions.
- It is also very likely that the Community will have to undertake liability commitments as well. The same is applicable to these commitments as to the guarantee commitments.
- A profit-sharing mechanism will have to be established, because according to a best case scenario it is likely that the programme will be as beneficial that the Community demand for repayment may be justified.
- It is fundamental to state that the ownership of the Intellectual Property Rights stays with the Supervisory Authority, but the revenues, generated from the exploitation of these rights can form the income of the concession holder. Since the concession contract is for a limited period, after the termination of the contract the Supervisory Authority can continue the exploitation of the IPR rights by itself or by entering into a contract with a new concession holder.
- An observer status, to be granted to the Parliament at the Administrative Board of the Supervisory Authority could ensure that the Parliament gets all the necessary information to fulfil its budgetary responsibilities.

**The strategic importance of the timing of the programme**

Your rapporteur emphasises that it is very important to define the timing of the phases in the regulation to avoid any further delay. The realistic time schedule is the following:

- The deployment phase start sin 2006 and finish in 2010, when all the 30 satellites and the complete ground segment must be operational.
- The commercial operating phase start sin 2008, with offering partial services. In 2010, when all the components will be in duty, the full operation phase can start.

This schedule secures the commercial advantage of an early-entering to the market of Galileo, in competition with the new generation of the US GPS. Even to enhance this market structure, the early integration of the EGNOS programme will have significant positive effects on the Galileo market entry. Through the EGNOS services, the future Galileo service providers and users can get to know the services that help the wider usage. It is therefore important to mention the EGNOS as the second pillar of the European satellite radio navigation policy.
16.6.2005

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Industry, Research and Energy

on the proposal for a European Parliament and Council regulation on the implementation of the deployment and commercial operating phases of the European programme of satellite radionavigation


Draftsman: Janusz Lewandowski

SHORT JUSTIFICATION

At its meeting of 23-24 May 2005, the Committee on Budgets examined the proposal for a regulation of the European Parliament and the Council on the implementation of the deployment and commercial operating phases of the European programme of satellite radionavigation for an amount of EUR 1 billion between 1st January 2007 to 31 December 2013.

As to the compatibility of the proposal with the next Financial Perspectives (Rule 36, paragraph 2 of Parliament's Rules of Procedure), the committee on Budgets reminds that the Temporary Committee on Policy Challenges and Budgetary Means of the enlarged Union 2007-2013 in its Report from 13 May 2005 stresses under point 54:

"...in anticipation of the entry into force of the relevant provisions of the Constitutional Treaty, where the Space Programme has its own legal base (Art. III-254), this should be treated as a separate policy area with its own clearly defined legal basis and be endowed with adequate financial resources and appropriate financial instruments to support space related research activities as well as the development and operation of infrastructures of Galileo and GMES, and EU access to space; believes that particular rules shall be introduced into the Framework Programme to enable the implementation of these specific activities."

As to the content of the proposal, the committee on Budgets notes that the Galileo project will be realized through a Public-Private-Partnership (PPP) with a private concessionaire as beneficiary, working under the control of a new Supervisory Authority. This Public-Private-Partnership means a share of enormous costs but also of considerable market risks.

As the Commission points out in its Green Paper COM(2004)0327 on "Public Private
Partnerships and Community Law on Public Contracts and Concessions", a characterizing element of a PPP is normally "the distribution of risks between the public partner and the private partner, to whom the risks generally borne by the public sector are transferred. However, a PPP does not necessarily mean that the private partner assumes all the risks..." (point 1.1.2. of the Green Paper).

However, in the case of Galileo it seems to be the other way round: as the contributions constitute subsidies, the European Communities are burdening the risk whereas possible economic benefits in the case of a market success of Galileo will be only for the private partner. An alternative financial mechanism could therefore have been foreseen to reimburse the public funding or under the 7th Framework Programme or under the proposed regulation in the case of an economic success (benefits for the concessionaire).

**AMENDMENTS**

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

**Draft legislative resolution**

Amendment 1

1a. **Points out that the appropriations indicated in the legislative proposal beyond 2006 are subject to the decision on the next multi-annual financial framework;**

1b. **Calls on the Commission, once the next multi-annual financial framework is adopted, to present, if appropriate a proposal to adjust the financial reference amount of the programme.**

**Justification**

The reference amount for the financial framework is indicative until a decision has been reached on the Financial Perspective. Once a decision is reached, the Commission shall present a legislative proposal to set the reference amount with the respect to the appropriate ceiling of the financial framework concerned.

**Proposal for a regulation**

__________________________  __________________________
Text proposed by the Commission  Amendments by Parliament

Amendment 2

Article 3, paragraph 1
The financial amount necessary for the implementation of the actions foreseen in article 2 of this Regulation for the period from 1st January 2007 to 31 December 2013 is [1 billion €].

The indicative financial framework for implementation of this instrument is set at EUR [1 billion €] for the period of 7 years as from 1st January 2007.

Justification

The reference amount for the financial framework is indicative until a decision has been reached on the Financial Perspective. Once a decision is reached, the Commission shall present a legislative proposal to set the reference amount with the respect to the appropriate ceiling of the financial framework concerned (see amendment to the legislative resolution).

Amendment 3
Article 4, paragraph 2

Operational credits necessary for the financing of the Community contribution are being granted to the GALILEO Supervisory Authority, through an agreement, in accordance with the requirements of article 2, point e) of Regulation (CE) n° ……./2004.

Operational credits necessary for the financing of the Community contribution are being granted to the GALILEO Supervisory Authority, through an agreement, in accordance with the requirements of article 2, point e) of Regulation (CE) n° 1321/2004. The budgetary authority will be informed on the draft agreement before it is initialled.

Justification

It is normal that the budgetary authority is being informed at an early stage on an agreement on a grant having a budgetary implication of this quantity.

Amendment 4
Article 4, paragraph 3

The amount of each annual subsidy is determined on the basis of the work programme of the Supervisory Authority approved by its Administrative Board, in accordance with the procedure foreseen in article 6 of Regulation (CE) n° ……/2004.

The amount of each annual subsidy is decided within the EU budgetary procedure taking into account the work programme of the Supervisory Authority approved by its Administrative Board and within the limits of the Financial perspective.

Justification

It should be made very clear that the annual amount is being allocated not on the basis of a
"work programme" of the Supervisory Authority but on the basis of the procedure foreseen in the Treaties, i.e. the annual Community budgetary procedure.

Amendment 5
Article 6

The Commission will ensure the implementation of the present Regulation and report regularly to the European Parliament and the Council. Every year, at the moment of the presentation of the Preliminary draft budget, the Commission will present a report to European Parliament and Council on the implementation of the programme.

Justification

Clarification concerning the annuality of the reporting requirement.
### PROCEDURE

<table>
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<th><strong>Title</strong></th>
<th>Proposal for a European Parliament and Council regulation on the implementation of the deployment and commercial operating phases of the European programme of satellite radionavigation</th>
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<tr>
<td><strong>Committee responsible</strong></td>
<td>ITRE</td>
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<tr>
<td><strong>Committee asked for its opinion</strong></td>
<td>BUDG 16.11.2004</td>
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<tr>
<td><strong>Enhanced cooperation</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Draftsman</strong></td>
<td>Janusz Lewandowski 26.10.2004</td>
</tr>
<tr>
<td><strong>Discussed in committee</strong></td>
<td>15.6.2005</td>
</tr>
<tr>
<td><strong>Date amendments adopted</strong></td>
<td>15.6.2005</td>
</tr>
</tbody>
</table>
| **Result of final vote** | **for:** 13  
**against:**  
**abstentions:**  |
| **Members present for the final vote** | Gérard Deprez, Bárbara Dührkop Dührkop, Ingeborg Gräßle, Louis Grech, Nathalie Griesbeck, Anne Elisabet Jensen, Sergej Kozlík, Janusz Lewandowski, Vladimír Maňka, Jan Mulder, Wojciech Roszkowski, Nina Škotová, Helga Trüpel |
| **Substitutes present for the final vote** |  |
| **Substitutes under Rule 178(2) present for the final vote** |  |
23.3.2005

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on Industry, Research and Energy


Draftsman: Patrick Louis

SHORT JUSTIFICATION

I. Summary of the proposal

The market in satellite navigation services and associated products is growing at an annual rate of 25% globally and could reach a level of €100 billion by 2010, creating 40 000 skilled jobs in Europe. With the Galileo programme, Europe is seeking to create the first global satellite positioning system, making it independent from the American GPS system.

This proposal for a regulation marks a major step forward in the project. After the definition phase, the project is currently in the second phase of development and validation (2002-2005), which includes the development of satellites, terrestrial components of the system and validation of orbits. This will be followed by a deployment phase in 2006 and 2007 involving the building and launching of the satellites and the establishment of the entire ground-based component, then a commercial operating phase due to begin in 2008 which will cover the management of the system as well as its maintenance and updating. The last two phases will be financed by a concessionaire from the private sector. The relevant tender procedure has been launched and the contract is due to be signed in 2005. At this stage only Inafsat (EADS, Thales) and Euresa (Alcatel, Finmeccanica) are still in the running.

The Community's financial contribution to the first two phases has been drawn from the trans-European networks budget. The construction and deployment of the satellite network will cost €2.1 billion, at least two-thirds of which will be funded by the private sector. Consequently, in addition to the €200 million already set aside, the additional cost to the Community will not exceed €500 million. The commercial operating phase is also to be funded by the private sector. In view of the specificities of the satellite radio-navigation market, a financial contribution has also been earmarked under the Community budget (€500 million). The exact
amount of the Community contribution will not be known until the conclusion of the negotiations on the concession contract.

The current Commission proposal firstly seeks to establish the arrangements for the Community's financial contribution to the deployment and commercial operating phases for the period 2007-2013. The contribution of €1 billion referred to above is defined as being a necessary contribution. The proposal also clearly establishes that the supervisory authority will be responsible for the administration and control of resources for Galileo and sets out the procedure for using those resources. The Commission will ensure that the Community's financial interests are protected.

II. Draftsman's comments

Galileo is a major project which will provide the Member States and the European Union with a significant return on their investment.

The strategic gains will be considerable: greater political autonomy vis-à-vis the American GPS monopoly, guarantee of service, greater reliability and a strategic chain which is coherent and seamless with the ESA.

This sector provides momentum for technological innovation and direct job creation. However, the greatest part of the added value will be derived from activities that are unrelated to the space industry.

In ethical terms, two competing systems offer more than the benefits of competition. European mastery of this technology will also require higher standards in terms of codes of conduct, the protection of personal data and data reliability.

This project pays due regard to national sovereignty and strict application of the subsidiarity principle which is central to the European Union. Firstly because the positive externalities created by Galileo could not be achieved by a single State or by a consortium of undertakings and, secondly, a private company will take the place of the Union once those externalities have been created. The Supervisory Authority, representing the Member States, will alone determine the future life of the project.

This international project involves other countries as partners or users. Among the five types of services on offer, the public regulated service allows States to reconcile the needs of autonomy and unity.

However, there are number of outstanding issues. Your draftsman would therefore also like to examine certain general aspects of the Galileo programme which are only touched on indirectly in this Commission proposal.

As far as the concession is concerned, it is important to speed up the procedure and not extend the deadlines and formalities imposed on candidates unnecessarily as these deadlines and formalities generate substantial costs, with the risk that potential bidders may ultimately be forced to withdraw.
As far as the financing is concerned, in order to enhance the visibility and traceability of investments, it would be a good idea to phase in a specific budget line for the project. The programming period 2007-2013 needs to be clarified.

In our view, information delivery, for which Galileo is a crucial medium, should be brought within the terms of reference of the Transport Committee, particularly since sound management of information economises on or streamlines flows of people and goods.

When it comes to the terms of the concession contract, given that the concession contract has a specified duration, it is important to find a way of guaranteeing that as the contract nears its end, the level of investment required to update the technology is adequate to maintain the service and ensure a new invitation to tender under appropriate conditions. Similarly there is the question of what will happen to the intellectual property - originally transferred by the Union to the joint undertaking - at the end of the concession contract. Your draftsman therefore proposes a number of amendments relating to the terms and conditions of the concession contract, which should include a mechanism for repaying the Community contribution in certain circumstances. So as to ensure economic viability for the concessionaire, is also important is that the contract should stipulate that the concessionaire receives the revenue from licenses and intellectual property rights.

A series of amendments has been tabled to make it clear that European satellite radio-navigation policy is currently being implemented under both the Galileo and EGNOS programmes, as reflected in 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. It is important to make it clear that satellite radio-navigation is not confined to Galileo.

**AMENDMENTS**

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendments by Parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendment 1</td>
<td>Recital -1 (new)</td>
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<tr>
<td>(-1) European satellite radio-navigation policy is currently implemented through the Galileo and EGNOS programmes.</td>
<td></td>
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</table>

Justification

*Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in*
the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.

Amendment 2
Recital 1 a (new)

(1a) Establishing this satellite radionavigation infrastructure is a project which clearly exceeds the technical and financial capabilities of any Member State acting alone. Galileo thus corresponds perfectly to the requirements of the subsidiarity principle because the Community level is the most appropriate; this is an example of the value added that Europe can generate when it has clearly defined its objectives and resources.

Justification
Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.

Amendment 3
Recital 1 b (new)

(1b) EGNOS is a programme aimed at augmenting the American GPS and Russian GLONASS signals for reliability purposes on a broad geographical area. It is independent from and complementary to Galileo.

Justification
Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.

Amendment 4
Recital 8 a (new)
(8a) Regulation (EC) No 1321/2004 of the Council of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes set up the European GNSS Supervisory Authority (hereafter ‘the Supervisory Authority’).

\(\text{\textsuperscript{1} OJ L 246, 20.7.2004, p. 1.}\)

Justification

To remain consistent with the wording of the quoted Council Regulation, the SA should be referred to as Supervisory Authority instead of GNSS Supervisory Authority. On top of that the GNSS Supervisory Authority reference could lead to misunderstandings related to the scope of the SA. The European GNSS Supervisory Authority has a scope over the European segments, and that should be carefully reflected.

Amendment 5
Recital 12

(12) It is therefore necessary to foresee a sum of €1 billion from the Community budget to finance the deployment and the commercial operating phases of GALILEO for the period 2007-2013.

Justification

Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.

Amendment 6
Recital 12 a (new)

(12a) This financial contribution from the public sector, which is for a limited period, does not exempt the private sector from its responsibility for funding the deployment and commercial operating phases.
Amendment 7
Recital 12b (new)

(12b) The concession contract provides for a mechanism for repayment of the Community contribution to the deployment and commercial operating phases if the revenue generated by the concessionaire exceeds a certain threshold.

Justification

See amendment to Article 3.

Amendment 8
Recital 12c (new)

(12c) The concession contract also provides for the concessionaire to receive the revenue from licences and intellectual property rights for system components, ownership of which rests with the Supervisory Authority.

Justification

See amendment to Article 3.

Amendment 9
Article 1

The present Regulation defines the modalities of the financial contribution of the Community for the implementation of the deployment and commercial operating phases of the European satellite radionavigation GALILEO, hereafter entitled “programme”.

The present Regulation defines the modalities of the financial contribution of the Community for the implementation of the deployment and commercial operating phases of the European satellite radionavigation programmes (GNSS), hereafter entitled “programmes”.

Justification

Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.
Amendment 10
Article 2, introductory part

The Community contribution to the programme allocated by this Regulation is granted with the aim of co-financing:

The Community contribution to the programmes allocated by this Regulation is granted with the aim of co-financing:

Justification

Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.

Amendment 11
Article 2, point (b)

(b) the first series of activities related to the launch of the commercial operating phase, covering the management of the infrastructure composed by satellites and the associated ground stations, as well as the maintenance and updating of the system.

(b) the first series of activities related to the launch of the commercial operating phase, covering, if necessary and in accordance with the terms of the concession contract, the management of the infrastructure composed by satellites and the associated ground stations, as well as the maintenance and updating of the system.

Justification

This proviso avoids pre-empting the concession contract.

Amendment 12
Article 3, indent 2 a (new)

The concession contract shall provide, inter alia, for:
- a mechanism for repaying the Community contribution to the deployment and commercial operating phases if the revenue generated by the concessionaire exceeds a certain threshold;
- the receipt by the concessionaire of revenue from licences and the exploitation of intellectual property rights in system
components ownership of which shall remain with the Supervisory Authority.

Amendment 13
Article 4, paragraph 1

The **GALILEO** Supervisory Authority ensures, in accordance with article 54, paragraph 2, point b) of Regulation (CE, Euratom) n° 1605/2002 of the Council of 25 June 2002 on financial regulation, and the requirements of Regulation (CE) n° …./2004, the management and control of the use of Community funds allocated to the European *programme* of satellite radionavigation.

The Supervisory Authority ensures, in accordance with article 54, paragraph 2, point b) of Regulation (CE, Euratom) n° 1605/2002 of the Council of 25 June 2002 on financial regulation, and the requirements of Regulation (CE) n° …./2004, the management and control of the use of Community funds allocated to the European *programmes* of satellite radionavigation.

**Justification**

*Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.*

Amendment 14
Article 4, paragraph 2

Operational credits necessary for the financing of the Community contribution are being granted to the **GALILEO** Supervisory Authority, through an agreement, in accordance with the requirements of article 2, point e) of Regulation (CE) n° ……./2004.

Operational credits necessary for the financing of the Community contribution are being granted to the Supervisory Authority, through an agreement, in accordance with the requirements of article 2, point e) of Regulation (CE) n° ……./2004.

**Justification**

*Reference should be made to other European satellite radio navigation programmes, not just to Galileo. The proposal for a regulation covers all measures taken by the European Union in the satellite radionavigation sphere, which are currently implemented through the Galileo and EGNOS programmes.*
# PROCEDURE

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<tr>
<td><strong>Draftsman</strong></td>
<td>Patrick Louis</td>
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<tr>
<td><strong>Date appointed</strong></td>
<td>16.11.2004</td>
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<tr>
<td><strong>Discussed in committee</strong></td>
<td>19.1.2005  14.3.2005</td>
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<tr>
<td><strong>Date amendments adopted</strong></td>
<td>21.2.2005</td>
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<td><strong>Result of final vote</strong></td>
<td>for: 37 against: 3 abstentions: 0</td>
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<tr>
<td><strong>Substitutes present for the final vote</strong></td>
<td>Jean Louis Cottigny, Antonio López-Istúriz White, Helmuth Markov</td>
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<td><strong>Substitutes under Rule 178(2) present for the final vote</strong></td>
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## PROCEDURE

| Title | Proposal for a regulation of the European Parliament and of the Council on the implementation of the deployment and commercial operating phases of the European programme of satellite radionavigation |
| Legal basis | Articles 251(2) and 156 EC |
| Basis in Rules of Procedure | Rule 51 |
| Date submitted to Parliament | 15.7.2004 |
| Committee responsible | ITRE |
| Committee(s) asked for opinion(s) | BUDG, CONT, TRAN |
| Not delivering opinion(s) | CONT |
| Enhanced cooperation | Date announced in plenary |
| Rapporteur(s) | Etelka Barsi-Pataky |
| Previous rapporteur(s) | |
| Simplified procedure | Date of decision |
| Legal basis disputed | Date of JURI opinion |
| Financial endowment amended | Date of BUDG opinion |
| European Economic and Social Committee consulted | Date of decision in plenary |
| Committee of the Regions consulted | Date of decision in plenary |
| Date adopted | 21.6.2005 |
| Result of final vote | for: 43, against: |
| Members present for the final vote | Ivo Belet, Šarūnas Birutis, Jan Březina, Jerzy Buzek, Joan Calabuig Rull, Pilar del Castillo Vera, Jorgo Chatzimarkakis, Giles Chichester, Adam Gierek, Umberto Guidoni, András Gyürk, Fiona Hall, David Hammerstein Mintz, Rebecca Harms, Ján Hudacký, Romana Jordan Cizelj, Werner Langen, Pia Elda Locatelli, Nils Lundgren, Eluned Morgan, Angelika Niebler, Reino Paasilinna, Umberto Pirilli, Miloslav Ransdorf, Vladimir Remek, Herbert Reul, Teresa Riera Madurell, Paul Rübig, Andres Tarand, Britta Thomsen, Claude Turmes, Nikolaos Vakalis, Alejo Vidal-Quadras Roca |
| Substitutes present for the final vote | Maria del Pilar Ayuso González, Etelka Barsi-Pataky, Dorette Corbey, Neena Gill, Norbert Glante, Edit Herczog, Peter Liese, Francisca Pleguezuelos Aguilar, Vittorio Prodi, Lambert van
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