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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the space programme of the Union and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013, (EU) No 377/2014 and Decision 541/2014/EU**

(Text with EEA relevance)

{SWD(2018) 327 final} - {SWD(2018) 328 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

Since the 1990s, the Union has been increasing its investment in the space sector. Even before the Lisbon Treaty came into force with a new Article 189 of the Treaty on the Functioning of the European Union (TFEU) laying the foundations for its action in this area, the Union had successfully developed EGNOS and Galileo, the European satellite navigation programmes. Both these programmes are in operation<sup>1</sup>, and Galileo is currently regarded as a flagship system of the Union.

In 2014, the Earth Observation Programme, Copernicus<sup>2</sup>, based on the GMES programme was added to the first two programmes. More recently, the Union launched activities within the Framework for Space Surveillance and Tracking Support<sup>3</sup>, 'SST'. The total budgetary allocation for all the Union's space activities, including research, for the 2014-2020 period, was EUR 12.6 billion.

In its Communication of 26 October 2016 entitled 'Space Strategy for Europe'<sup>4</sup>, the Commission set out a new space strategy for Europe focusing on four strategic goals: maximising the benefits of space for society and the EU economy, fostering a competitive and innovative European space sector, reinforcing Europe's strategic autonomy in accessing and using space in a secure and safe environment, and strengthening Europe's role as a global actor and promoting international cooperation.

The rationale for adopting the Space Strategy for Europe is based on the strategic importance of the space sector for the Union and on the need for the European space sector to adapt to the changing global environment. Space supports many policies and strategic priorities of the Union. Space can play a crucial role in effectively tackling new challenges such as climate change, sustainable development, border control, maritime surveillance and security of Union citizens. The emergence of those new Union priorities leads to new ways of developing the Programme. Security requirements need to be strengthened when developing Union space systems, to fully benefit from synergies between civil and security activities.

But space is also part of a global value chain, which is facing major changes pushing away the traditional boundaries of the space sector. The so-called "New Space" is revolutionising the space sector, not only from the technological point of view but also from the business model point of view. Space is attracting more and more businesses and entrepreneurs, sometimes with no experience in the area. It is therefore crucial that the Union actively supports the entire space sector, in particular research and development, start-ups and incubators of companies active in the space sector.

As regards its programmes more specifically, the Commission stressed in the Space Strategy for Europe, the importance of ensuring the continued operation of the services offered by Galileo, EGNOS and Copernicus, and of preparing new generations of these services, enhancing the SST services and announced the governmental satellite communications initiative 'GOVSATCOM', initially included in the 2017 Commission Work Programme. Moreover, it emphasised the key role of partnerships between the Commission, the Member

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<sup>1</sup> Regulation (EU) No 1285/2013. OJ L 347, 20.12.2013, p. 1.

<sup>2</sup> Regulation (EU) No 377/2014. OJ L 122, 24.4.2014, p. 44.

<sup>3</sup> Decision No 541/2014/EU. OJ L 158, 27.5.2014, p. 227.

<sup>4</sup> COM(2016) 705 final.

States, the European GNSS (Global Navigation Satellite Systems) Agency, the European Space Agency and all the other agencies and stakeholders that are involved in the implementation of the European space policy, thus highlighting the crucial importance of putting in place efficient and appropriate governance for delivery of the Union space programme.

As regards the new initiative, GOVSATCOM, Europe's capability deficits regarding secure satellite communications have been recognized in the European Council Conclusions of December 2013 and various subsequent Council conclusions, in the Commission White Paper on the future of Europe, in the Rome Declaration of the Leaders of 27 Member States, and in several European Parliament resolutions.

The approach advocated by the Commission in its Communication on a Space Strategy for Europe was affirmed by both the Council in its Conclusions adopted on 30 May 2017<sup>5</sup> and the European Parliament in its resolution of 12 September 2017<sup>6</sup>. In its conclusions of 30 May 2017, the Council in particular encouraged the Commission and the Member States to continue, as appropriate, to rely on the technical know-how of the European Space Agency and of European national space agencies, invited the Commission to analyse and assess the potential evolution of the European GNSS Agency's responsibilities and acknowledged the need to pursue stronger synergies, where appropriate, between the civilian and military uses of space assets.

The proposal for a Regulation is part of the follow-up to the Space Strategy for Europe. A fully integrated space programme will bring together all of the Union's activities in this highly strategic field. This will provide a coherent framework for future investment, offering increased visibility and more flexibility. By improving efficiency, it will ultimately help roll out new space-driven services that will benefit all EU citizens.

The Programme thus aims to:

- provide, or contribute to the provision of, high-quality and up-to-date and, where appropriate, secure space-related data, information and services without interruption and wherever possible at global level, meeting existing and future needs and able to meet the Union's political priorities, including as regards climate change and security and defence;
- maximise the socio-economic benefits, including by promoting the widest possible use of the data, information and services provided by the Programme's components;
- enhance the security of the Union and its Member States, as well as its freedom of action and its strategic autonomy, in particular in technological and evidence-based decision-making terms;
- promote the role of the Union in the international arena as a leading actor in the space sector and strengthening its role in tackling global challenges and supporting global initiatives, including as regards climate change and sustainable development.

The proposal for a Regulation contains suitable measures for achieving these aims.

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<sup>5</sup> Council conclusions on "A Space Strategy for Europe" adopted by the Council ("Competitiveness") at its meeting on 30 May 2017 (doc no. 9817/17).

<sup>6</sup> European Parliament resolution of 12 September 2017 on a Space Strategy for Europe (2016/2325(INI)).

The proposal for a Regulation significantly simplifies and streamlines the existing Union acquis by combining in a single text and harmonising almost all rules that were hitherto contained in separate Regulations or Decisions. This raises the profile of the Union space policy, which is in line with the major role that the Union intends to play in future as a global player in space.

The proposal provides the Union with a space budget of a sufficient size to carry out the various activities envisaged, in particular in respect of continuing and improving Galileo, EGNOS, Copernicus and SST, as well as launching the Govsatcom initiative.

It lays down the rules for the governance of the Programme by clarifying the relations between the various players involved and the role of these players, mainly the Member States, the Commission and the European Union Agency for Space, and by establishing a unified system of governance for all the components of this programme. It enhances the role of the former European GNSS Agency by expanding the scope of its tasks as regards security accreditation to include all the components of the Programme, thus justifying a change of name for this agency, which is to become the European Union Agency for the Space Programme.

Finally, it specifies and standardises the security framework for the Programme, particularly as regards the principles to be respected, procedures to be followed and measures to be taken, which is of crucial importance, given the dual use nature of the actions.

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017.

- **Consistency with existing policy provisions in the policy area**

The Union acquis in the space sector currently includes the following Regulations and Decisions:

- Regulation (EU) No 1285/2013 of the European Parliament and of the Council on the implementation and exploitation of the European satellite navigation systems, Galileo and EGNOS;
- Regulation (EU) No 377/2014 of the European Parliament and of the Council establishing the Copernicus Programme;
- Decision No 541/2014/EU of the European Parliament and of the Council establishing a Framework for Space Surveillance and Tracking Support (SST);
- Regulation (EU) No 912/2010 of the European Parliament and of the Council setting up the European GNSS Agency;
- Decision No 1104/2011/EU of the European Parliament and of the Council on the rules for access to the public regulated service provided by the Galileo system;
- Council Decision 2014/496/CFSP on aspects of the deployment, operation and use of the Galileo system affecting the security of the European Union.

The present Regulation replaces the first four of these texts, which it also repeals. It lays down rules common to all the components of the Programme, including Galileo, EGNOS, Copernicus and SST, and sets out certain rules that are specific to each of these components. As regards Regulation (EU) No 912/2010, the required changes are such that, in the interest of clarity and simplification, it is preferable to repeal this text too and to incorporate the rules

on the new Agency, which succeeds the European GNSS Agency, into the proposed Regulation establishing the Union Space Programme.

The proposed Regulation in no way amends or affects Decision No 1104/2011/EU, which will continue to regulate one particular service provided by Galileo, namely the Public Regulated Service (PRS). That Decision will thus continue to apply alongside the proposed Regulation, complementing it by means of a *lex specialis* regarding this particular service. In addition, Decision 2014/496/CFSP, which is based on Article 28 of the Treaty on European Union (TEU), will also continue to apply as before.

In the context of Galileo and EGNOS, in all cases where the deployment, operation or use of the components may hinder the security of the Union or of one of its Member States, in particular as a result of an international situation requiring action by the Union or in the event of a threat to the operation of the components themselves or their services, the procedures provided for in Decision 2014/496/CFSP apply.

- **Consistency with other Union policies**

The space sector gives rise to many positive spillover effects on other sectors of the economy. Maximising the benefits of space for citizens' well-being and the prosperity of the Union economy, promoting scientific and technical progress as well as the competitiveness and innovative capacity of European industry, and contributing to the objectives of smart, sustainable and inclusive growth are also among the main goals of the Union's space strategy that are duly included in the proposal for a Regulation.

The operation of space systems such as EGNOS, Galileo or Copernicus directly complements actions engaged in under many other Union policies, in particular research and innovation policy, security policy and migration, industrial policy, the common agricultural policy, fisheries policy, trans-European networks, environment policy, energy policy and development aid.

SST and the new GOVSATCOM initiative will also contribute to the objectives of the European Defence Action Plan and the European Union Global Strategy. They will enhance the operational effectiveness of security actors and will safeguard citizens' rights to security, to diplomatic or consular protection, and to protection of personal data. Finally, they will improve the effectiveness major EU policies, such as the maritime security strategy, the cyber defence policy framework, the Arctic policy, border management and migration, humanitarian aid, fisheries, transport and management of critical infrastructure.

The Programme's actions should be used to address market failures or sub-optimal investment situations, in a proportionate manner, without duplicating or crowding out private financing and have a clear European added value. This will ensure consistency between the actions of the programme and EU State aid rules, avoiding undue distortions of competition in the internal market.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis for the proposed Regulation is Article 189(2) TFEU, which provides for the Union to draw up a European space policy and gives the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, the power to adopt a Programme to contribute to attaining that policy's objectives.

Whereas GNSS Regulation (EU) No 1285/2013 and the European GNSS Agency Regulation (EU) No 912/2010, which deal with Galileo and EGNOS specifically, are based on Article

172 TFEU (Trans-European Networks), it is – in light of the case law of the Court of Justice on the choice of legal basis – appropriate to base the proposed Regulation on Article 189(2) TFEU, having regard to the content and objectives of the measures provided therein.

- **Subsidiarity**

Space is a cutting-edge sector which mobilises considerable financial resources and applies advanced technologies in various fields. The objectives of the proposed Regulation, as described above, cannot be adequately achieved by the Member States, even by those leading the field in the space sector. The fact is that scientific and technical experience and know-how in this sector are spread over several of the Union's economic regions as well as the European Space Agency, which is an international organisation of which most of the EU's Member States are a member country. On the financial side, the task of constructing and operating systems such as Galileo and Copernicus, which provide services of interest to all the Union's Member States, not to say all the regions of the world, is too large in size to be performed by a single Member State acting on its own. Such are the scale and ramifications of the proposed Regulation's aims that they can only be properly achieved by action at Union level.

- **Proportionality**

The proposed Regulation provides for measures that do not go beyond what is necessary for achieving its objectives. The Galileo, EGNOS, Copernicus, SST and GOVSATCOM components are in keeping with the needs of the Union's businesses and citizens. They have significant positive spillover effects on the Union's economy. The way in which these systems are being developed is intended to support the implementation of EU legislation and best meet the Union's political priorities including in the areas of climate change and security and defence. Supporting the space sector within the Union, particularly by giving backing to start-ups or launchers, helps to safeguard the Union's freedom of action and technological strategic autonomy and to expand its international outreach.

Furthermore, the budget allocated to the Programme is not disproportionate to the objectives being sought. The amounts needed to deliver the Programme have been determined in the light of a number of analyses and estimates carried out as part of the impact assessment and described below.

- **Choice of the instrument**

A Regulation of the European Parliament and of the Council establishing the Programme is not only explicitly provided for by Article 189(2) TFEU but is also the preferred instrument for placing the Programme on a sustainable footing. For that choice of legal instrument ensures the uniformity and direct application which are required for the effective implementation of the Programme, while giving it all due visibility and providing it with the financial resources it needs for its implementation.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

As regards Galileo and EGNOS, pursuant to Article 34 of the GNSS Regulation (EU) No 1285/2013 and Article 26 of the European GNSS Agency (GSA) Regulation (EU) No 912/2010, the Commission provided the European Parliament and Council with a mid-term report on the progress of Galileo and EGNOS and the running of the European GNSS

Agency. In that context, a mid-term evaluation study was carried out on behalf of the Commission<sup>7</sup>.

The mid-term evaluation report focused on the implementation of the Programme over the period 2014-2016. It concluded that Galileo and EGNOS have shown a satisfactory level of effectiveness and are on track to achieve the long-term objectives for 2020 set by the GNSS Regulation. Nevertheless, some inefficiencies and areas for possible improvements been identified in the security governance of Galileo and in the overall governance of Galileo and EGNOS.

As regards governance, the 2014-2016 timeframe constituted an important transition period, as key elements of the governance and management framework were progressively implemented and consolidated. Their future development will be an important aspect for Galileo's forthcoming exploitation phase and it will need to be addressed with care.

As regards security governance, particular attention should be paid in the next phase to secure the independence of the Security Accreditation Board and of the staff working for it from the operational activities relating to Galileo and EGNOS.

Regarding financial matters, as of the end of 2016, both Galileo and EGNOS were implemented within the budget set by the GNSS Regulation (EUR 7.071 million) and no general cost overrun has been recorded.

In terms of coherence with other EU policies, within the programmes themselves and with other GNSS programmes, both Galileo and EGNOS have shown a high level of coherence.

Finally, the GSA has successfully achieved its objectives, related to the progress of Galileo and EGNOS and the development of the downstream market, through an effective implementation of both core and delegated tasks. However, there have been some difficulties related to its capacity to hire appropriate staff.

As for Copernicus, pursuant to Article 32 of the Copernicus Regulation (EU) No 377/2014, the Commission provided the European Parliament and Council with a mid-term evaluation on the achievement of the objectives of all the tasks financed by Copernicus at the level of their results and impacts, their European added value and on the efficiency of the use of resources. A mid-term evaluation study was carried out on behalf of the Commission.

The mid-term evaluation covered the period 2014-2016. It concluded that Copernicus was “on track, having already met some major expectations to support the autonomy of Europe in the provision of quality and useful data and its exploitation by a large number of users, for both institutional and commercial purposes”.

Other strong assets of Copernicus were highlighted such as the open data policy, the actions stimulating uptake by the private sector, the tangible economic benefits, the good level of coherence internally and with other EU actions, the excellent budget implementation within the budget set by the Regulation and a good cooperation internally within the Commission and with Member States.

In terms of specific lessons learned, the unprecedented success of the programme and its volume of data led to two main findings:

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<sup>7</sup> Mid-term review of the Galileo and EGNOS programmes and the European GNSS Agency, PwC France study, June 2017, EU Bookshop: <https://publications.europa.eu/en/publication-detail/-/publication/56b722ee-b9f8-11e7-a7f8-01aa75ed71a1>

- i) the need to improve the distribution and access to data: due to the very high number of user registrations, the communication aspects, the data distribution and access, and data download need to be improved.
- ii) the need to strengthen the integration of space data into other policy areas and economic sectors through increased focus on user uptake: Copernicus is reaching user constituencies from the traditional space area but additional effort is needed to reach other potential users outside space.

For SST, the Commission adopted a report on the implementation of the SST support framework (2014-2017) on 3 May 2018 (COM(2018)256). The report concluded that EU SST delivered results for all actions and three services, and created EU added value, but the EU SST needs to evolve to improve its effectiveness. To respond to the report's recommendations, the accompanying impact assessment mentioned four issues to be addressed in order to step up the implementation in the next years:

- i) Improve EU SST services autonomy by upgrading SST sensors, developing new sensors and establishing a European SST catalogue of space objects.
- ii) Foster the European dimension of EU SST by removing unnecessary duplications between SST national operational centres and by requiring specialisation, based on best performance.
- iii) Modify the decision-making structure by using the qualified majority and by creating a joint coordination team to ensure the supervision of the technical work.
- iv) Revise the funding mechanism by establishing a programme with one budget line and long-term perspective.

- **Consultation of stakeholders**

This initiative is also supported by extensive public consultations and workshops, seeking the views of all relevant stakeholders (industry, Member States, researchers etc.), more precisely:

- In 2016: a major public consultation across all space aspects including the programmes proposed at present for the next MFF was undertaken by the Commission prior to the adoption of the Space Strategy for Europe.;
- In 2015-2016: two targeted consultations were undertaken for space research aspects including positions papers by Member States, major industry trade associations and research organisations.
- In 2015-2017: numerous dedicated workshops, meetings and reports at expert level have been held to consult stakeholders on: (i) the evolution of Copernicus and Galileo; (ii) specific needs of industry; (iii) specific needs on governmental satellite communications; (iv) specific needs on space situational awareness including SST, space weather and near-Earth objects.
- In 2016-2017, as part of the impact assessment for the future GOVSATCOM programme, targeted consultations were carried out with all relevant stakeholders – Member States in their quality of GOVSATCOM providers and users, EU Institutions and Agencies, and Industry including satellite manufacturers, operators and SMEs – through bilateral contacts and plenary meetings. Most MS and industry clearly support the program and its objectives. Stakeholders' recommendations, in particular for strong security, aggregation of demand, reliance on national and

commercial suppliers, civil-military synergies and a modular service-centred approach were integrated in the proposal.

As for the major public consultation, undertaken by the Commission prior to the adoption of the Space Strategy for Europe in 2016, the key messages are the following:

For Galileo and EGNOS, there is globally a sufficient level of satisfaction from stakeholders with respect to the implementation of the EU intervention logic and the achievements of the programmes during the evaluation period.

Their effectiveness has been particularly evident in the achievements of Galileo's space segment and the consolidation of the stability and high performance of EGNOS service provision with the declaration of the LPV-200 service and the provision of APV-I services over the 98,98% of the land mass of the EU Member States plus Norway and Switzerland. Nevertheless, stakeholders consider that the effectiveness of the governance could benefit from a reduction in its complexity, often leading to duplication of effort and delays. In addition to that, stakeholders consider governance should be adapted in the future as Galileo moves into its exploitation phase.

For Copernicus, the open data policy is considered a strong asset. The Copernicus services are appreciated by the users regarding product relevance, timeliness of delivery and availability of products. The coordination of the in-situ component has demonstrated good results with an increase of users and the production of a wider catalogue of datasets. However, still more emphasis needs to be given to the development of the in-situ component of Copernicus and the use of relevant in-situ datasets, with added value to be gained from integrating different sources of earth observation data. The management of Copernicus is seen as working efficiently. However, the access to in-situ data needs to be improved. Gaps in the availability of in-situ data stand in the way of reaching the full potential of the Copernicus services.

The Copernicus objectives are still appropriate but stakeholders mentioned that additional ones should be addressed (e.g. anthropogenic CO<sub>2</sub> emissions, environmental and climate compliance assurance<sup>8</sup>, polar zones, cultural heritage preservation etc.). They also mentioned that the access to sentinel data and integration of various data sources could be improved.

Regarding the EU dimension of the programme, there was strong agreement among stakeholders concerning the necessity to ensure continuity of the EU action, while it was agreed among the stakeholders that, stopping or withdrawing the existing EU intervention would have such severe consequences for Galileo, EGNOS and Copernicus which could jeopardise the entire programme.

- **Collection and use of expertise**

Specific reports have been carried out:

- As noted above, a mid-term evaluation study was carried out and delivered by external contractors on 23 June 2017. It served as a basis for the Commission report to the European Parliament and Council on the status of Galileo and EGNOS and the establishment of the GSA, to fulfil the requirement set by Article 34 of the GNSS Regulation (EU) No 1285/2013 and Article 26 of the European GNSS Agency Regulation (EU) No 912/2010.

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<sup>8</sup> [Commission Action Plan on environmental compliance and governance: Communication on 'EU actions to improve environmental compliance and governance', COM/2018/10, Staff Working Document, SWD\(2018\)10, which provides details of each action, Decision, C\(2018\)10, establishing the Environmental Compliance and Governance Forum.](#)

- A study on the impacts of funding to Galileo and EGNOS has been carried out in the first quarter of 2018.
- As also noted above, a mid-term evaluation study on Copernicus was carried out and delivered by external contractors on 23 June 2017. It served as a basis for the Commission report to the European Parliament and Council on the status of Copernicus, to fulfil the requirement set by Article 32 of the Copernicus Regulation (EU) No 377/2014.
- A study on Socio-economic benefits of Copernicus was carried out and finalised by external contractors in January 2018.
- A study on the impacts, costs and benefits of the evolution of SST was carried out and delivered by external contractors in May 2018<sup>9</sup>.
- For GOVSATCOM, the Commission relied on a Group of Experts from Member States, the European Space Agency and the European Defence Agency. The Group elaborated the GOVSATCOM High Level Civil-Military User Needs Document, accompanied the impact assessment process including the GOVSATCOM impact Assessment Study by PwC, published in February 2018, and provided expertise to the Commission on satellite communication matters. Further expertise was provided by national administrations and industry during the stakeholder consultation.
- Additional studies have also been performed on specific issues (e.g. access to space).

All studies are publicly available in the EU Bookshop.

- **Impact assessment**

In line with its “Better Regulation” policy, the Commission conducted an impact assessment in view of the establishment of a Union Space Programme.

The impact assessment was based on three specific goals:

- Ensuring the continuity of the existing space infrastructures and services and the development of new or enhanced ones;
- Fostering an innovative European space sector; and
- Maintaining the EU's capacity to have autonomous access to space relying on an EU independent industry, guaranteed access to EU space data and services and use them safely and securely.

Regarding the funding of the Programme, **two options** were assessed.

The “Baseline scenario” consisted of a reduction (-15%) of the current budget, taking into account the withdrawal of the UK from the EU. The proposed scenario consisted of a sustained level of funding, increased by 50%, compared to the current budget.

The baseline scenario was considered insufficient in order to achieve the ambitious objectives of the Union space policy as highlighted in the Space Strategy for Europe. For Galileo, a decrease in the current budget would lead to a gradual degradation of its infrastructures and services and to a final shut down of its activities in the following decades. As for EGNOS, it would remain operational but could not augment Galileo as provided for in the GNSS Regulation. Similar consequences could be expected for Copernicus since the whole

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<sup>9</sup> Study on the impacts of changes in funding to the EGNSS programmes, PwC France study, June 2018. Not yet published in the EU Bookshop.

Copernicus architecture could barely continue, let alone making any improvement possible, by preventing the full replacement of the existing satellites when they would reach their end of life in orbit.

The proposed scenario would ensure continuity in the operations and service provision, the constellation of Galileo's 30 satellites, and technological evolution, which would contribute to the second-generation deployment, as well as support the flourishing of the applications markets. A sustained level of funding of Copernicus would allow the Union to maintain its autonomy and leadership in environmental monitoring, emergency management and support to border and maritime security and to establish a level of confidence for the downstream sector to use and integrate Copernicus data and information based on the existing Copernicus infrastructure and services.

It is expected that the continuity of Galileo, EGNOS, Copernicus and SST, through the provision of adequate budgetary resources, will bring significant socio-economic and environmental benefits, including new job creation. End-users will benefit directly from a variety of new applications, which will improve the way people travel, work, communicate. It is expected that the citizens will benefit from modernised and environmentally friendly transport services, which will lead to a more efficient and less polluting traffic management. More efficient emergency services will secure a better and quicker reaction in emergencies, while the use of advanced GNSS applications in agriculture together with Earth Observation data will ensure more sustainable food availability.

For GOVSATCOM, a full self-standing impact assessment was conducted. The Regulatory Scrutiny Board delivered a positive opinion on 29 September 2017. This assessment analysed the baseline and four policy options which share a common set of underlying core-elements, including common security requirements, synergies by aggregating national and EU demand, coordinating supply, civil-military coherence, economies of scale and efficiency gains, strengthening of Union autonomy and industrial competitiveness. The four options differ on the supply-side by using either using national or commercial SatCom capacities and services, or a mixture thereof. They also vary with regard to the possible future acquisition of space infrastructure, either through a public-private partnership or by fully EU-owned assets.

The option retained optimises the advantages of the different options, respects subsidiarity, and reflects stakeholders' recommendations. Aggregating civil and military users at national and EU level, financing of services through the Program budget, and using both national and security accredited commercial assets will allow for a quick start of operations and enhance the flexibility and scope of GOVSATCOM. Cost-effective public-private partnerships are deemed best for future space infrastructure development if required. An EU-owned Hub and coherent security requirements are indispensable.

For the Programme, a draft version of the impact assessment (excluding GOVSATCOM which was covered by another impact assessment) was presented to the Regulatory Scrutiny Board on 11 April 2018. The Regulatory Scrutiny Board issued a negative opinion on 13 April 2018. Subsequently, the draft report was amended considerably in order to take into account the recommendations for improvement, in particular:

- Clearer description of the challenges faced by the Programme, including a better description of the origin of the challenges (political challenges, global challenges, challenges based on lessons learned from existing programmes)
- Clearer links between these challenges and the specific objectives of the Programme
- Clearer description of the priorities of the Programme and how they are linked to the challenges and objectives
- Clarifications regarding the changes on governance of the Programme

- Additional information on the budgetary allocation to the main activities

A second draft version was sent to the Regulatory Scrutiny Board on 25 April 2018. The Board issued a positive opinion on 3 May 2018 with a recommendation to further improve the report with two key aspects. Subsequently and in line with the instruction to take those comments into account prior to launching the interservice consultation, the draft report was amended in particular on the following points:

- Improved description of the division of responsibilities between the European Union Agency for the Space Programme and the Commission
- Additional explanation on budget allocated to continuity and new activities
- Better distinction between the general objectives and the specific objectives

The Regulatory Scrutiny Board delivered a positive opinion on the draft impact assessment on 3 May 2018.

- **Regulatory fitness and simplification**

As explained above, the proposed Regulation aims to considerably simplify the legislation in force in that it consolidates the key components of the Union Space Programme in a single text and replaces three Regulations of the European Parliament and of the Council and one decision of the European Parliament and of the Council, which currently regulate those components.

- **Fundamental rights**

The proposed Regulation contains the usual stipulations on the protection of personal data and privacy. In particular, it lays down that all personal data handled in the context of the tasks and activities provided for in this Regulation, including by the European Union Agency for the Space Programme, are to be processed in accordance with the applicable law on personal data protection.

#### **4. BUDGETARY IMPLICATIONS**

The Union's contribution to the Programme from 2021 is EUR 16 billion at current prices.

Most of the budget will be implemented through indirect management thanks to contribution agreements with entrusted entities.

The estimated costs of the Programme are the result of extensive analyses, supported by the experience acquired by the Commission in the management of existing actions (Galileo, EGNOS, Copernicus and SST) and through preparatory studies and stakeholder consultations for GOVSATCOM. This expertise acquired by the Commission is essential factor in ensuring the continuity of the actions. The estimated requirements in Human Resources as indicated in the Financial Statement accompanying this regulation reflect this need of continuity in the expertise.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The proposed Regulation provides that the Programme is to be implemented by the Commission through the work programmes referred to in [Article 108] of the Financial Regulation, taking into account evolving user needs and technological developments.

Implementation of the proposed Regulation is to be monitored in a number of ways.

Firstly, the Commission is to report annually to the European Parliament and the Council on the implementation of the Programme. The report is to include information pertaining to risk management, overall cost, annual operating cost, results of the calls for tender, revenues, schedule and performance.

Secondly, performance indicators are to be defined for monitoring the implementation of the Programme and the achievement of the Regulation's objectives, with the beneficiaries of Union funds being obliged to provide the relevant information. Data must also be collected on the exploitation and deployment of research and innovation results, including through monitoring the funding allocated for the uptake of research and innovation results, notably from the Horizon Europe.

Thirdly, the Programme is to be evaluated at least once every four years. These evaluations are to be carried out in good time to allow the appropriate decisions to be taken.

Evaluations will be carried out in line with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016<sup>10</sup>, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments of options for further action. The evaluations will assess the Programme's effects on the ground based on the Programme indicators/targets and a detailed analysis of the degree to which the Programme can be deemed relevant, effective, efficient, provides enough EU added value and is coherent with other EU policies. They will include lessons learnt to identify any lacks/problems or any potential to further improve the actions or their results and to help maximise their exploitation/impact

The conclusions of the evaluations, together with the Commission's observations, are to be communicated to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

- **Detailed explanation of the specific provisions of the proposal**

The proposed Regulation consists of 12 titles.

Title I contains general provisions setting out, amongst other things, the subject of the Regulation, the components of the Programme, the objectives of that Programme and the principle of Union ownership of the assets created or developed under the Programme.

Title II provides for the budgetary contributions and mechanisms of the Programme.

Title III sets out the financial provisions applicable to the Programme. As regards public procurement, it is necessary, given the complexity and specificities of the contracts to be concluded in the space sector, to provide for measures related to the implementation of the Financial Regulation. The financial provisions must also allow the differing needs of the programme's various components to be met and a range of forms of cooperation and partnership between stakeholders to be used.

Title IV relates to the governance of the Programme. It details the role to be played by this programme's four main actors, namely the Commission, the European Union Agency for the Space Programme, the European Space Agency and the Member States, and the relations between these various actors.

Title V deals with security, which is particularly important in view of the strategic nature of several of the Programme's components and the links between space and security. A high

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<sup>10</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

level of security has to be achieved and maintained by imposing effective governance arrangements that are largely based on the Member States' experience and on the experience gained by the Commission in recent years. Furthermore, like any programme with a strategic dimension, the Programme has to undergo independent security accreditation following the appropriate standards in this respect.

Title VI relates to Galileo and EGNOS. These provisions are largely based on the relevant provisions of GNSS Regulation (EU) No 1285/2013, but they have been updated and adjusted where necessary, taking into account inter alia that these two systems are now in operation and have become components of the Union's overarching space programme.

Title VII relates to Copernicus. This title contains some provisions very similar to those in the current Copernicus Regulation (EU) No 377/2014, whilst nevertheless reflecting certain major developments of the system focused on the processing and management of data and the establishment of an overarching legal framework,.

Title VIII sets out the details of the other components of the Union Space Programme, mainly SST and GOVSATCOM. Whereas the provisions on SST build up on those already laid down in SST Decision No 541/2014/EU, the section on GOVSATCOM is completely new.

Title IX changes the name of the European GNSS Agency to the European Union Agency for the Space Programme and amends some of the Agency's operating rules currently laid down in Regulation (EU) No 912/2010. These changes reflect in particular the new role assigned to the Agency, whose tasks are extended to potentially include all the components of the Union Space Programme.

Titles X, XI and XII set out respectively miscellaneous provisions, provisions on delegation and implementing measures and final provisions.

- **Climate mainstreaming**

The Commission proposal for the 2021-2027 Multiannual Financial Framework set a more ambitious goal for climate mainstreaming across all EU programmes, with an overall target of 25% of EU expenditure contributing to climate objectives. The contribution of this programme to the achievement of this overall target will be tracked through an EU climate marker system at an appropriate level of disaggregation, including the use of more precise methodologies where these are available. The Commission will continue to present the information annually in terms of commitment appropriations in the context of the annual draft budget.

To support the full utilisation of the potential of the programme to contribute to climate objectives, the Commission will seek to identify relevant actions throughout the programme preparation, implementation, review and evaluation processes.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the space programme of the Union and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013, (EU) No 377/2014 and Decision 541/2014/EU**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 189(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Space technology, data and services have become indispensable in the daily lives of Europeans and play an essential role in preserving many strategic interests. The Union's space industry is already one of the most competitive in the world. However, the emergence of new players and the development of new technologies are revolutionising traditional industrial models. It is therefore crucial that the Union remains a leading international player with extensive freedom of action in the space domain, that it encourages scientific and technical progress and support the competitiveness and innovation capacity of space sector industries within the Union, in particular small and medium-sized enterprises, start-ups and innovative businesses.
- (2) The space sector's development has historically been linked to security. In many cases, the equipment, components and instruments used in the space sector are dual-use goods. The possibilities that space offers for the security of the Union and its Member States should therefore be exploited.
- (3) The Union has been developing its own space initiatives and programmes since the end of the 1990s, namely the European Geostationary Navigation Overlay Service (EGNOS) and then Galileo and Copernicus, which respond to the needs of Union citizens and the requirements of public policies. Not only should the continuity of those initiatives be ensured but they must also be improved, so that they remain at the forefront in view of new technology development and the transformations in the digital and information and communications technology domains, meet the new needs of users and are able to meet political priorities such as climate change, including monitoring changes in the Arctic, security and defence.
- (4) The Union needs to ensure its freedom of action and autonomy to have access to space and be able to use it safely. It is therefore essential that it maintains autonomous, reliable and cost-effective access to space, especially as regards critical infrastructure and technology, public security and the security of the Union and its Member States. The Commission should therefore have the possibility to aggregate launch services at European level, both for its own needs and,

at their request, for those of other entities, including Member States, in conformity with the provisions of Article 189(2) of the Treaty. It is also crucial that the Union continues to have modern, efficient and flexible launch infrastructure facilities. In addition to measures taken by Member States and the European Space Agency, the Commission should consider ways to support such facilities. In particular, where space ground infrastructure necessary to perform launches in line with the needs of the Programme is to be maintained or upgraded, it should be possible to partially fund such adaptations under the Programme, in line with the Financial Regulation and where a clear EU value added can be established, with the view of achieving a better cost efficiency for the Programme.

- (5) To strengthen the competitiveness of the Union space industry and gain capacities in designing, building and operating its own systems, the Union should support the creation, growth, and development of the entire space industry. The emergence of a business- and innovation-friendly model should be supported at European, regional and national levels by establishing space hubs that bring together the space, digital and user sectors. The Union should foster the expansion of Union-based space companies to help them succeed, including by supporting them in accessing risk finance in view of the lack, within the Union, of appropriate access to private equity for space start-ups and by creating innovation partnerships (first contract approach).
- (6) Owing to its coverage and its potential to help resolve global challenges, the space programme of the Union ('Programme') has a strong international dimension. The Commission should therefore be enabled to manage, on behalf of the Union, and coordinate activities on the international scene on behalf of the Union, in particular to defend the interests of the Union and its Member States in international fora, including in the area of frequencies, to promote the Union's technology and industry, and to encourage cooperation in the field of training, bearing in mind the need to ensure the reciprocity of the rights and obligations of the parties. It is particularly important that the Union be represented by the Commission in the bodies of the International Cospas-Sarsat Programme or in relevant sectoral UN bodies including the Food and Agriculture Organisation, as well as the World Meteorological Organisation.
- (7) The Commission should promote, alongside the Member States and the High Representative, responsible behaviour in space and outer space and explore the possibility for accession to the relevant UN Conventions.
- (8) The Programme shares similar objectives with other Union programmes, notably Horizon Europe, InvestEU Fund, European Defence Fund and Funds under Regulation (EU) [Common Provisions Regulation]. Therefore, cumulative funding from those programmes should be foreseen, provided they do cover the same cost items, in particular through arrangements for complementary funding from Union programmes where management modalities permit - either in sequence, in an alternating way, or through the combination of funds including for the joint funding of actions, allowing, where possible, innovation partnerships and blending operations. During the implementation of the Programme, the Commission should therefore promote synergies with other related Union programmes which would allow, where possible, use of access to risk finance, innovation partnerships, cumulative or blended funding.
- (9) The policy objectives of this Programme will also be addressed as eligible areas for financing and investment operations through financial instruments and budgetary guarantee of the InvestEU Fund, in particular under its sustainable infrastructure and research, innovation and digitisation policy windows. Financial support should be used to address market failures or sub-optimal investment situations, in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear European added value.

- (10) Coherence and synergies between Horizon Europe and the Programme will foster a competitive and innovative European space sector; reinforce Europe's autonomy in accessing and using space in a secure and safe environment; and strengthen Europe's role as a global actor. Breakthrough solutions in Horizon Europe will be supported by data and services made available by the Programme to the research and innovation community.
- (11) It is important that the Union own all tangible and intangible assets created or developed through public procurement that it finances as part of its space programme. In order to ensure full compliance with any fundamental rights relating to ownership, the necessary arrangements should be made with any existing owners. Such ownership by the Union should be without prejudice to the possibility for the Union, in accordance with this Regulation and where it is deemed appropriate on the basis of a case-by-case assessment, to make those assets available to third parties or to dispose of them.
- (12) This Regulation lays down a financial envelope for the Programme which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, for the European Parliament and the Council during the annual budgetary procedure.
- (13) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Programme will contribute to mainstream climate actions and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Programme's preparation and implementation, and reassessed in the context of the relevant evaluations and review processes.
- (14) Any revenue generated by the Programme should accrue to the Union in order to partially offset the investments that it has already made, and that revenue should be used to support the objectives of the Programme. For the same reason, it should be possible to provide for a revenue-sharing mechanism in contracts concluded with private sector entities.
- (15) As the Programme is, in principle, financed by the Union, procurement contracts concluded under this programme should comply with Union rules. In that context, the Union should also be responsible for defining the objectives to be pursued as regards public procurement.
- (16) The Programme relies on complex and constantly changing technologies. The reliance on such technologies results in uncertainty and risk for public contracts concluded under this programme, insofar as those contracts involve long-term commitments to equipment or services. Specific measures concerning public contracts are therefore required in addition to the rules laid down in the Financial Regulation. It should thus be possible to award a contract in the form of a conditional stage-payment contract, introduce an amendment, under certain conditions, in the context of its performance, or impose a minimum level of subcontracting. Lastly, given the technological uncertainties that characterise the components of the Programme, contract prices cannot always be forecast accurately and it should therefore be possible to conclude contracts without stipulating a firm fixed price and to include clauses to safeguard the financial interests of the Union.
- (17) In order to meet the objectives of the Programme, it is important to be able to call, where appropriate, on capacities offered by Union public and private entities active in the space domain and also to be able to work at international level with third countries or international organisations. For that reason, provision must be made for the possibility of using all the relevant tools provided for by the Financial Regulation (in particular grants, prizes and financial instruments), various management methods (such as direct and indirect management, public-private partnerships and joint undertakings) and joint procurement procedures.

- (18) On grants more specifically, experience has shown that user and market uptake and general outreach work better in a decentralized manner than top-down by the Commission. Vouchers, which are a form of financial support from a grant beneficiary to third parties, have been among the actions with the highest success rate to new entrants and small and medium-sized enterprises. However, they have been hindered by the ceiling on financial support imposed by the Financial Regulation. This ceiling should therefore be raised for the EU Space Programme in order to keep pace with the growing potential of market applications in the space sector.
- (19) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in [Article 125(1)] of the Financial Regulation.
- (20) Regulation (EU, Euratom) No [the new FR] (the ‘Financial Regulation’) applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees.
- (21) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 88 of Council Decision .../.../EU], persons and entities established in overseas countries and territories (OCTs) should be eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (22) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.
- (23) In accordance with the Financial Regulation, Council Regulation (EC, Euratom) No 2988/95,<sup>11</sup> Council Regulation (Euratom, EC) No 2185/96<sup>12</sup> and Council Regulation (EU) 2017/1939<sup>13</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939,

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<sup>11</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).

<sup>12</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, (OJ L 292, 15.11.1996, p. 2–5).

<sup>13</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), (OJ L283, 31.10.2017, p. 1-71).

the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>14</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (24) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorizing officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.
- (25) Sound public governance of the Programme requires the strict distribution of responsibilities and tasks among the different entities involved to avoid duplication and reduce cost overruns and delays.
- (26) Member States have long been active in the field of space. They have systems, infrastructure, national agencies and bodies linked to space. They can therefore make a big contribution the Programme, especially its implementation, and should be required to cooperate fully with the Union to promote the Programme's services and applications. The Commission should be able to mobilise the means at Member States' disposal, might entrust the Member States with non-regulatory tasks in the execution of the Programme and benefit from their assistance. Moreover, the Member States concerned should take all necessary measures to ensure the protection of the ground stations established on their territories. In addition, Member States and the Commission should work together and with appropriate international bodies and regulatory authorities to ensure that the frequencies necessary for the Programme are available and protected to allow for the full development and implementation of applications based on the services offered, in compliance with Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme<sup>15</sup>.
- (27) As promoter of the Union's general interest, it falls to the Commission to implement the Programme, assume overall responsibility and promote their use. In order to optimise the resources and competences of the various stakeholders, the Commission should be able to delegate certain tasks. Moreover the Commission is the best placed to determine the main technical and operational specifications necessary to implement systems and services evolution.
- (28) The mission of the European Union Agency for the Space Programme ("the Agency"), which replaces and succeeds the European GNSS Agency established by Regulation (EU) No 912/2010, is to contribute to the Programme, particularly as regards security. Certain tasks linked to the security and promotion of the Programme should therefore be assigned to the Agency. In relation to security in particular, and given its experience in this area, the Agency should be responsible for the security accreditation tasks for all the Union actions in the space sector. Furthermore, it should perform the tasks which the Commission confers on it by means

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<sup>14</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

<sup>15</sup> Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

of one or more contribution agreements covering various other specific tasks associated with the programme.

- (29) The European Space Agency is an international organisation with extensive expertise in the space domain and which entered into a Framework Agreement with the European Community in 2004. It is therefore an important partner in the implementation of the Programme, with which any appropriate relations should be established. In this regard, and in compliance with the Financial Regulation, it is important to conclude a financial framework partnership agreement with the European Space Agency that governs all financial relations between the Commission, the Agency and the European Space Agency and ensures their consistency and conform to the Framework Agreement with the European Space Agency, in particular with Article 5 thereof. However, as the European Space Agency is not a Union body and is not subject to Union law, it is essential, in order to protect the interests of the Union and its Member States, that such an agreement be conditional on the introduction of appropriate operating rules in the European Space Agency. The agreement should also contain all the clauses necessary to safeguard the Union's financial interests.
- (30) The functioning of SATCEN as a European autonomous capability providing products and services resulting from exploitation of relevant space assets and collateral data, including satellite and aerial imagery, is essential for strengthening the Common Foreign Security Policy. In that sense SATCEN will be maximising synergies and complementarities with other Union activities especially the Programme and its components.
- (31) To structurally embed the user representation in the governance of GOVSATCOM and to aggregate user needs and requirements across national and civil-military boundaries, the relevant Union entities with close user-ties, such as the European Defence Agency, the European Border and Coast Guard Agency, the European Maritime Safety Agency, the European Fisheries Control Agency, the European Union Agency for Law Enforcement Cooperation, the Military Planning and Conduct Capability/Civilian Planning and Conduct Capability and the Emergency Response Coordination Centre should have coordinating roles for specific user groups. At an aggregated level the Agency and the European Defence Agency should respectively represent the civilian and military user communities and may monitor operational use, demand, conformance to requirements and evolving needs and requirements.
- (32) Owing to the importance of space-related activities for the Union economy and the lives of Union citizens, the dual-use nature of the systems and of the applications based on those systems, achieving and maintaining a high degree of security should be a key priority for the Programme, particularly in order to safeguard the interests of the Union and of its Member States, including in relation to classified and other sensitive non-classified information.
- (33) The Commission and the High Representative, each within their respective area of competence, should ensure the security of the Programme in accordance with this Regulation and, where relevant, Council Decision 2014/496/CFSP.
- (34) The governance of the security of the Programme should be based on three key principles. Firstly, it is imperative that Member States' extensive, unique experience in security matters be taken into consideration to the greatest possible extent. Secondly, in order to prevent conflicts of interest and any shortcomings in applying security rules, operational functions must be segregated from security accreditation functions. Thirdly, the entity in charge of managing all or part of the components of the Programme is also the best placed to manage the security of the tasks entrusted to it. Sound security governance also requires that roles be appropriately distributed among the various players. As it is responsible for the Programme, the Commission should determine the general security requirements applicable to each of the programme's components.

- (35) In view of the uniqueness and complexity of the Programme and its link to security, recognised and well established principles should be followed for security accreditation. It is thus indispensable that security accreditation activities be carried out on the basis of collective responsibility for the security of the Union and its Member States, by endeavouring to build consensus and involving all those concerned with the issue of security, and that a procedure for permanent risk monitoring be put in place. It is also imperative that technical security accreditation activities be entrusted to professionals who are duly qualified in the field of accrediting complex systems and who have an adequate level of security clearance.
- (36) To ensure the secure circulation of information, appropriate rules should be established to ensure equivalence of security rules for the different public and private entities, as well as natural persons, involved in the implementation of the Programme.
- (37) One of the main objectives of the Programme consists in ensuring its security and strategic autonomy, strengthening its capacity to act in numerous sectors, in particular security, and taking advantage of the possibilities that space offers for the security of the Union and its Member States. This objective requires strict rules on the eligibility of the entities that may take part in activities financed under the Programme which require access to EU classified information (EUCI) or to sensitive non-classified information.
- (38) A growing number of key economic sectors, in particular transport, telecommunications, agriculture and energy, increasingly use satellite navigation systems, not to mention the synergies with activities linked to the security and defence of the Union and its Member States. Having full control of satellite navigation should therefore guarantee the Union's technological independence, including in the longer term for the components of infrastructure equipment, and ensure its strategic autonomy.
- (39) The aim of Galileo is to establish and operate the first global satellite navigation and positioning infrastructure specifically designed for civilian purposes, which can be used by a variety of public and private actors in Europe and worldwide. Galileo functions independently of other existing or potential systems, thus contributing amongst other things to the strategic autonomy of the Union. The second generation of the system should be progressively rolled out before 2030, initially with reduced operational capacity.
- (40) The aim of EGNOS is to improve the quality of open signals from existing global navigation satellite systems, in particular those emitted by the Galileo system. The services provided by EGNOS should cover, as a priority, the Member States' territories geographically located in Europe, including for this purpose the Azores, the Canary Islands and Madeira, with the aim to cover those territories by the end of 2025. Subject to technical feasibility and, for the safety of life, on the basis of international agreements, the geographical coverage of the services provided by EGNOS could be extended to other regions of the world. Without prejudice to Regulation [2018/XXXX] [EASA Regulation] and the necessary monitoring of Galileo service quality for aviation purposes, it should be noted that while the signals emitted by Galileo may effectively be used to facilitate the positioning of aircraft, only local or regional augmentation systems such as EGNOS in Europe may constitute air-traffic management (ATM) services and air navigation services (ANS).
- (41) It is imperative that the continuity, sustainability and future availability of the services provided by the Galileo and EGNOS systems be ensured. In a changing environment and rapidly developing market, their development should also continue and new generations of these systems should be prepared.
- (42) In order to maximise their take-up, the Galileo's open service and high-accuracy service and the EGNOS open service and safety-of-life service should be provided free of charge to users.

- (43) The term ‘commercial service’ used in Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council<sup>16</sup> is no longer suited in the light of the evolution of that service. Instead two separate services should be identified, namely the high-accuracy service and the authentication service.
- (44) In order to optimise the use of the services provided, the services provided by Galileo and EGNOS should be compatible and interoperable with one another and, insofar as possible, with other satellite navigation systems and with conventional means of radio navigation where such compatibility and interoperability is laid down in an international agreement, without prejudice to the objective of strategic autonomy of the Union.
- (45) Considering the importance for Galileo and EGNOS of their ground-based infrastructure and the impact thereof on their security, the determination of the location of the infrastructure should be made by the Commission. The deployment of the ground-based infrastructure of the systems should continue to follow an open and transparent process.
- (46) To maximise the socio-economic benefits of Galileo and EGNOS, notably in the area of security, the use of the services provided by EGNOS and Galileo in other Union policies should be promoted where this is justified and beneficial.
- (47) Copernicus should ensure an autonomous access to environmental knowledge and key technologies for Earth observation and geo-information services, thereby enabling the Union to achieve independent decision-making and actions in the fields of the environment, climate change, civil protection, security, as well as the digital economy, among others.
- (48) Copernicus should build on and ensure continuity with the activities and achievements under Regulation (EU) No 377/2014 of the European Parliament and of the Council<sup>17</sup> establishing the Union Earth observation and monitoring programme (Copernicus) as well as Regulation (EU) No 911/2010 of the European Parliament and of the Council on the European Earth monitoring programme (GMES) and its initial operations<sup>18</sup> establishing the predecessor Global Monitoring for Environment and Security (GMES) programme and the rules for implementation of its initial operations, taking into account recent trends in research, technological advances and innovations impacting the Earth observation domain, as well as developments in big data analytics and Artificial Intelligence and related strategies and initiatives at Union level<sup>19</sup>. To the greatest extent possible, it should make use of capacities for space-borne observations of the Member States, the European Space Agency, EUMETSAT<sup>20</sup>, as well as other entities, including commercial initiatives in Europe, thereby also contributing to the development of a viable commercial space sector in Europe. Where feasible and appropriate, it should also make use of the available in situ and ancillary data provided mainly by the Member States in

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<sup>16</sup> OJ L 347, 20.12.2013, p. 1–24.

<sup>17</sup> Regulation (EU) No 377/2014 of the European Parliament and of the Council of 3 April 2014 establishing the Copernicus Programme and repealing Regulation (EU) No 911/2010 (OJ L 122, 24.4.2014, p. 44).

<sup>18</sup> Regulation (EU) No 911/2010 of the European Parliament and of the Council of 22 September 2010 on the European Earth monitoring programme (GMES) and its initial operations (2011 to 2013)(OJ L 276, 20.10.2010, p. 1).

<sup>19</sup> Communication "Artificial Intelligence for Europe" (COM(2018) 237 final) , Communication "Towards a common European data space" (COM(2018) 232 final), Proposal for a Council Regulation on establishing the European High Performance Computing Joint Undertaking (COM(2018) 8 final).

<sup>20</sup> The European Organisation for the Exploitation of Meteorological Satellites

accordance with Directive 2007/2/EC<sup>21</sup>. The Commission should work together with the Member States and the European Environment Agency to ensure an efficient access and use of the in-situ data sets for Copernicus.

- (49) Copernicus should be implemented in accordance with the objectives of Directive 2003/98/EC of the European Parliament and of the Council on the re-use of public sector information amended by Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information<sup>22</sup>, in particular transparency, the creation of conditions conducive to the development of services, and contributing to economic growth and job creation in the Union. Copernicus data and Copernicus information should be available freely and openly.
- (50) Copernicus is a user-driven programme. Its evolution should therefore be based on the evolving requirements of the Copernicus core users, while also recognising the emergence of new user communities either public or private. Copernicus should base itself on an analysis of options to meet evolving user needs, including those related to implementation, and monitoring of Union policies which require the continuous, effective involvement of users, particularly regarding the definition and validation of requirements.
- (51) Copernicus is already operational. It is therefore important to ensure the continuity of the infrastructure and services already in place, whilst adapting to the changing market environment, notably the emergence of private actors in space (“New Space”) and socio-political developments for which a rapid response is needed. This requires a redefinition of the functional structure of Copernicus to better reflect the shift from the first stage of operational services to the provision of advanced and more targeted services to new user communities and the fostering of added-value downstream markets. To this end, its further implementation should adopt an approach following the data value chain, i.e. data acquisition, data and information processing, distribution and exploitation, user and market uptake activities, while the strategic planning process under Horizon Europe will identify research and innovation activities that should make use of Copernicus.
- (52) With regard to data acquisition, the activities under Copernicus should aim at completing and maintaining the existing space infrastructure, preparing the long-term replacement of the satellites at the end of their lifetime, as well as initiating new missions addressing new observation systems to support meeting the challenge of global climate change (e.g. anthropogenic CO<sub>2</sub> and other greenhouse gas emissions monitoring). Activities under Copernicus should expand their global monitoring coverage over the polar regions and support environmental compliance assurance, statutory environmental monitoring and reporting and innovative environmental applications (e.g. for crops monitoring, water management and enhanced fire monitoring). In doing so, Copernicus should leverage and take maximum advantage of the investments made under the previous funding period (2014-2020), while exploring new operational and business models to further complement the Copernicus capacities. Copernicus should also build on successful partnerships with Member States to further develop its security dimension under appropriate governance mechanisms, in order to respond to evolving user needs in the security domain.
- (53) As part of the data and information processing function, Copernicus should ensure the long-term sustainability and further development of the core Copernicus services, providing information in order to satisfy public sector needs and those arising from the Union’s

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<sup>21</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

<sup>22</sup> OJ L 175, 27.6.2013, p. 1–8.

international commitments, and to maximise opportunities for commercial exploitation. In particular, Copernicus should deliver, at the local, national, European and global scale, information on the state of the atmosphere; information on the state of the oceans; information in support of land monitoring supporting the implementation of local, national and Union policies; information in support of climate change adaptation and mitigation; geospatial information in support of emergency management, including through prevention activities, environmental compliance assurance, as well as civil security including support for the Union's external action. The Commission should identify appropriate contractual arrangements fostering the sustainability of service provision.

- (54) In the implementation of the Copernicus services, the Commission may rely on competent entities, relevant Union agencies, groupings or consortia of national bodies, or any relevant body potentially eligible for a contribution agreement. In the selection of these entities, the Commission should ensure that there is no disruption in the operations and provision of services and that, where security-sensitive data is concerned, the entities concerned have early warning and crisis monitoring capabilities within the context of the common foreign and security policy (CFSP) and, in particular, of the common security and defence policy (CSDP).
- (55) The implementation of the Copernicus services should facilitate the public uptake of services as users would be able to anticipate the availability and evolution of services as well as cooperation with Member States and other parties. To this end, the Commission and its entrusted entities providing services should engage closely with different user communities across Europe in further developing the Copernicus services and information portfolio to ensure that evolving public sector and policy needs are met and thus the uptake of Earth observation data can be maximised. The Commission and Member States should work together to develop the in-situ component of Copernicus and to facilitate the integration of in-situ datasets with space datasets for upgraded Copernicus services.
- (56) The data and information produced in the framework of Copernicus should be made available on a full, open and free-of-charge basis subject to appropriate conditions and limitations, in order to promote their use and sharing, and to strengthen the European Earth observation markets, in particular the downstream sector, thereby enabling growth and job creation in the Union. Such provision should continue to provide data and information with high levels of consistency, continuity, reliability, and quality. This calls for large-scale and user-friendly access to, processing and exploitation of Copernicus data and information, at various timeliness levels, for which the Commission should continue to follow an integrated approach, both at EU and Member States level, enabling also integration with other sources of data and information. Copernicus should further promote its Data and Information Access Services (DIAS) within Member States and establish synergies with their assets in order to maximise and strengthen market uptake of Copernicus data and information.
- (57) The Commission should work with data providers to agree licensing conditions for third-party data to facilitate their use within Copernicus, in compliance with this Regulation and applicable third-party rights. As some Copernicus data and Copernicus information, including high-resolution images, may have an impact on the security of the Union or its Member States, in duly justified cases, measures in order to deal with risks and threats to the security of the Union or its Member States may be adopted.
- (58) The provisions of legal acts adopted under previous regulations without ending date should remain valid unless in contradiction with the new regulation. This concerns in particular the Commission Delegated Regulation (EU) No 1159/2013 establishing the registration and

licensing conditions for GMES users and defining criteria for restricting access to GMES dedicated data and GMES service information<sup>23</sup>.

- (59) To promote and facilitate the use of Earth observation data and technologies both by local authorities, by small and medium-sized enterprises, scientists and researchers, dedicated networks for Copernicus data distribution, including national and regional bodies, should be promoted through user uptake activities. To this end, the Commission and the Member States should strive to establish closer links between Copernicus and Union and national policies in order to drive the demand for commercial applications and services and enable enterprises, particular small and medium-sized enterprises and start-ups, to develop applications based on Copernicus data and information aiming at developing a competitive Earth observation data eco-system in Europe.
- (60) In the international domain, Copernicus should provide accurate and reliable information for cooperation with third countries and international organisations, and in support of the Union's external and development cooperation policies. Copernicus should be considered as a European contribution to the Global Earth Observation System of Systems (GEOSS), the Committee on Earth Observation Satellites (CEOS), the Conference of the Parties (COP) to the 1992 United Nations Framework Convention on Climate Change (UNFCCC) and the Sendai Framework for Disaster Risk Reduction. It should establish or maintain appropriate cooperation with relevant sectoral UN bodies and the World Meteorological Organisation.
- (61) In the implementation of Copernicus, the Commission should rely, where appropriate, on European international organisations with which it has already established partnerships, in particular the European Space Agency for the development and procurement of space assets, data access and the operation of dedicated missions. In addition, the Commission should rely on EUMETSAT for the operation of dedicated missions in accordance with its expertise and mandate. In the domain of services, the Commission should take appropriate benefit from the specific capacities provided by Union Agencies such as the European Environment Agency, the European Maritime Safety Agency, the European Border and Coast Guard Agency, as well as the intergovernmental European Centre for Medium-range Weather Forecasts and the European investments made already in marine environment monitoring services through Mercator Ocean. On security, a comprehensive approach at Union level will be sought with the High Representative. The Joint Research Centre (JRC) of the Commission has been actively involved from the start of the GMES initiative and has supported developments for Galileo and space weather. Under Regulation (EU) No 377/2014; the JRC is managing the Copernicus emergency management service and the global component of the Copernicus land monitoring service; it is contributing to the review of the quality and fitness for purpose of products and information, and to the future evolution. The Commission should continue relying on JRC's scientific and technical advice for the implementation of the Programme.
- (62) Following the requests of the European Parliament and of the Council and, the Union established a support framework for space surveillance and tracking (SST) by means of Decision No 541/2014/EU of the European Parliament and of the Council of 16 April 2014 establishing a Framework for Space Surveillance and Tracking Support<sup>24</sup>. Space debris has become a serious threat to the security, safety and sustainability of space activities. The SST is therefore primordial to preserve the continuity of the Programme's components and their contributions to Union policies. By seeking to prevent the proliferation of space debris, SST

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<sup>23</sup> OJ L 309, 19.11.2013, p. 1–6.

<sup>24</sup> OJ L 158, 27.5.2014, p. 227.

contributes to ensuring the sustainable and guaranteed access to and use of space, which is a global common.

- (63) The SST should further develop the performance and autonomy of SST capabilities. To this end, it should lead to the establishment of an autonomous European catalogue of space objects, building on data from the network of SST sensors. The SST should also continue to support operation and delivery of SST services. As SST is a user-driven system, appropriate mechanisms should be put in place to collect user requirements, including those relating to security.
- (64) The delivery of SST services should be based on a cooperation between the Union and the Member States and on the use of existing as well as future national expertise and assets, including those developed through the European Space Agency or by the Union. It should be possible to provide financial support for the development of new SST sensors. Recognising the sensitive nature of the SST, the control over national sensors and their operations, maintenance and renewal and the processing of data leading to the provision of SST services should remain with the participating Member States.
- (65) Member States with adequate ownership or access to SST capabilities should be able to participate in the delivery of the SST services. Participating Member States in the SST Consortium established under the Decision No 541/2014/EU should be deemed to comply with these criteria. Those Member States should submit a proposal and demonstrate compliance with further elements related to the operational set up. If no proposal is submitted these Member States should be able to submit offers covering a specific orbit regime for example Low Earth Orbit (LEO) regime and Medium Earth and Geostationary orbits (MEO and GEO) regime respectively. Appropriate rules should be established for the selection and organisation of Member States participants.
- (66) Once SST is set up, it should respect the principles of complementarity of activities and continuity of high quality user-driven SST services, and be based on the best expertise. SST should therefore avoid unnecessary duplication. Any redundant capabilities should be strictly limited to ensure SST services continuity and quality. The activities of the Expert Teams should help avoiding these unnecessary duplications.
- (67) In addition, the SST should be complementary to existing mitigation measures, such as the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space (COPUOS) and Guidelines for the Long-term Sustainability of Outer Space Activities, or other initiatives, to ensure the safety, security and sustainability of outer space activities. With a view to reducing risks of collision, the SST would also seek synergies with initiatives of active removal and passivation measures of space debris. The SST should contribute to ensuring the peaceful use and exploration of outer space. The increase in space activities may have implication on the international initiatives in the area of the space traffic management. The Union should monitor those developments and may take them into consideration in the context of the mid-term review of the current MFF.
- (68) SST, space weather and NEO should have regard to cooperation with international partners, in particular the United States of America, international organisations and other third parties, particularly to avoid collisions in space, to prevent the proliferation of space debris and to increase preparedness to effects of extreme space weather events and near-Earth objects
- (69) The Security Committee of the Council recommended the creation of a risk management structure to ensure that data security issues are duly taken into account in the implementation of Decision No 541/2014/EU. For that purpose and taking account of the work already performed, the appropriate risk management structures and procedures should be established by the participating Member States.

- (70) Extreme and major space weather events may threaten the safety of citizens and disrupt the operations of space-based and ground-based infrastructure. A space weather function should therefore be established as part of the Programme with an aim of assessing the space weather risks and corresponding user needs, raising the awareness of space weather risks, ensuring the delivery of user-driven space weather services, and improving Member States' capabilities to produce space weather services. The Commission should prioritise the sectors to which the operational space weather services are to be provided taking into account the user needs, risks and technological readiness. In the long term, the needs of other sectors may be addressed. The delivery of services at Union level according to the users' needs will require targeted, coordinated and continued research and development activities to support space weather services evolution. The delivery of the space weather services should build on the existing national and Union capabilities and enable a broad participation of Member States and involvement of the private sector.
- (71) The Commission White Paper on the future of Europe<sup>25</sup>, the Rome Declaration of the Heads of State and Government of 27 EU Member States<sup>26</sup>, and several European Parliament resolutions, recall that the EU has a major role to play in ensuring a safe, secure and resilient Europe that is capable to address challenges such as regional conflicts, terrorism, cyber threats, and growing migration pressures. Secure and guaranteed access to satellite communications is an indispensable tool for security actors, and pooling and sharing of this key security resource at Union level strengthens a Union that protects its citizens.
- (72) The European Council of 19-20 December 2013<sup>27</sup> in its conclusions welcomed in the area of Satellite Communication the preparations for the next generation of Governmental Satellite Communication (GOVSATCOM) through close cooperation between the Member States, the Commission and the European Space Agency. GOVSATCOM has also been identified as one of the elements of the Global Strategy for the European Union's Foreign and Security Policy of June 2016. GOVSATCOM should contribute to the EU response to Hybrid Threats, provide support to the EU Maritime Strategy and to the EU Arctic Policy.
- (73) GOVSATCOM is a user-centric programme with a strong security dimension. The use-cases may be analysed for three main families: crisis management, which may include civilian and military Common Security and Defence missions and operations, natural and man-made disasters, humanitarian crises, and maritime emergencies; surveillance, which may include border surveillance, pre-frontier surveillance, sea-border surveillance, maritime surveillance, surveillance of illegal trafficking; and key infrastructures, which may include diplomatic network, police communications, critical infrastructures (e.g. energy, transport, water barriers) and space infrastructures.
- (74) Satellite communications is a finite resource limited by the satellite capacity, frequency and geographic coverage. Therefore, in order to be cost-effective and to capitalise on economies of scale, GOVSATCOM needs to optimise the match between the GOVSATCOM demand by authorised users, and the supply provided under GOVSATCOM contracts for satellite capacities and services. Since the demand and the potential supply both change with time, this requires constant monitoring and flexibility to adjust GOVSATCOM services. Economies of scale can only be achieved for a sufficiently large pool of capacities and services and user base.
- (75) Operational requirements will be derived on the basis of the use-case analysis. From those operational requirements, in combination with security requirements, the service portfolio

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<sup>25</sup> [https://ec.europa.eu/commission/sites/beta-political/files/white\\_paper\\_on\\_the\\_future\\_of\\_europe\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/white_paper_on_the_future_of_europe_en.pdf)

<sup>26</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/intm/146072.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/146072.pdf)

<sup>27</sup> EUCO 217/13

should be developed. The service portfolio should establish the applicable baseline for the services to be provided through GOVSATCOM. In order to maintain the best possible match between the demand and supplied services, the GOVSATCOM service portfolio may need to be regularly updated.

- (76) In the first phase of GOVSATCOM (roughly until 2025) existing capacity from private actors and Member States will be used. In this first phase services will be introduced in a stepped approach, first to Union-level users. If in the course of the first phase a detailed analysis of future supply and demand reveals that this approach is insufficient to cover the evolving demand, the decision may be taken to move to a second phase and develop additional bespoke space infrastructure or capabilities through one or several public-private partnerships, e.g. with Union satellite operators.
- (77) In order to optimise the available satellite communication resources, to guarantee access in unpredictable situations, such as natural disasters, and to ensure operational efficiency and short turn-around times, one or two GOVSATCOM Hubs are required. The ground segment should be designed on the basis of operational and security requirements. In order to mitigate risks it may consist of several physical sites. Additional ground segment elements, such as anchoring stations, may be needed.
- (78) For users of satellite communications the user equipment is the all-important operational interface. The EU GOVSATCOM approach makes it possible for most users to continue to use their existing user equipment for GOVSATCOM services in so far as they make use of Union technologies.
- (79) In the interest of operational efficiency users have indicated that it is important to aim for interoperability of user equipment, and user equipment that can make use of different satellite systems. Research and development in this domain may be required.
- (80) At implementation level the tasks and responsibilities should be distributed amongst specialised entities, such as the European Defence Agency, the EEAS, the European Space Agency, the Agency, and other Union agencies in such a manner to ensure that they align with their principal role, especially for user related aspects.
- (81) The competent GOVSATCOM authority has an important role to monitor that users, and other national entities that play a role in GOVSATCOM, comply with the sharing and prioritisation rules and security procedures as laid down in the security requirements. A Member State which has not designated a competent GOVSATCOM authority should in any event designate a point of contact for the management of any detected jamming affecting GOVSATCOM.
- (82) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers regarding operational requirements for services provided under GOVSATCOM should be conferred on the Commission. It will give the possibility to the Commission to define technical specifications for use-cases related to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (83) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers regarding the service portfolio for services provided under GOVSATCOM, should be conferred on the Commission. It will give the possibility to the Commission to define attributes, including geographic coverage, frequency, bandwidth, user equipment, and security features. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (84) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers regarding the sharing and prioritisation rules for the use of pooled GOVSATCOM

satellite communication capacities, should be conferred on the Commission. It will give the possibility to the Commission take into account the operational and security requirements and an analysis of risks and expected demand by GOVSATCOM participants. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

- (85) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers regarding the location of the ground segment infrastructure for GOVSATCOM, should be conferred on the Commission. It will give the possibility to the Commission take into account the operational and security requirements for the selection of such locations. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (86) Infrastructure dedicated to the Programme may require additional research and innovation, which may be supported under Horizon Europe, aiming for coherence with activities in this domain by the European Space Agency. Synergies with Horizon Europe should ensure that research and innovation needs of the space sector are identified and established as part of the strategic research and innovation planning process. Space data and services made freely available by the Programme will be used to develop breakthrough solutions through research and innovation, including in Horizon Europe, in particular for sustainable food and natural resources, climate monitoring, smart cities, automated vehicles, security and disaster management. The strategic planning process under Horizon Europe will identify research and innovation activities that should make use of Union-owned infrastructures such as Galileo, EGNOS and Copernicus. Research infrastructures, in particular in situ observing networks will constitute essential elements of the in situ observation infrastructure enabling the Copernicus services
- (87) Regulation (EU) No 912/2010 established a Union agency, called the European GNSS Agency, to manage certain aspects of the Galileo and EGNOS satellite navigation programmes. The present Regulation provides in particular that the European GNSS Agency will be entrusted with new tasks, not only in respect of Galileo and EGNOS but also for other components of the Programme, especially security accreditation. The name, tasks and organisational aspects of the European GNSS Agency must therefore be adapted accordingly.
- (88) In view of its extended scope, which will no longer be limited to Galileo and EGNOS, the European GNSS Agency should henceforth be changed. However, the continuity of the activities of the European GNSS Agency, including continuity as regards rights and obligations, staff and the validity of any decisions taken, should be ensured under the Agency.
- (89) Given the Agency's mandate and the role of the Commission in implementing the Programme, it is appropriate to provide that some of the decisions taken by the Administrative Board should not be adopted without the favourable vote of the representatives of the Commission.
- (90) Without prejudice to the powers of the Commission, the Administrative Board, the Security Accreditation Board and the Executive Director shall be independent in the performance of their duties and shall act in the public interest.
- (91) It is possible, and indeed probable, that some components of the Programme will be based on the use of sensitive or security-related national infrastructure. In this case, for reasons of national security, it is necessary to stipulate that meetings of the Administrative Board and Security Accreditation Board be attended only by the representatives of the Member States which possess such infrastructure.
- (92) To encourage the widest possible use of the services offered by the Programme, it would be useful to stress that data, information and services are provided without guarantee.

- (93) It should be confirmed that the Commission, in performing certain of its tasks of a non-regulatory nature, may have recourse, as required and insofar as necessary, to the technical assistance of certain external parties. Other entities involved in the public governance of the Programme may also make use of the same technical assistance in performing tasks entrusted to them under this Regulation.
- (94) Pursuant to paragraphs 22 and 23 of the Inter-Institutional agreement on Better Law-Making of 13 April 2016, there is a need to evaluate the Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements can, where appropriate, include measurable indicators, as a basis for evaluating the effects of the programme.
- (95) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (96) As sound public governance requires uniform management of the Programme, faster decision-making and equal access to information, representatives of the entities entrusted with tasks related to this programme should be able to take part as observers in the work of the committee established in application of Regulation (EU) No 182/2011. For the same reasons, representatives of third countries and international organisations who have concluded an international agreement with the Union should be able to take part in the work of the committee subject to security constraints and as provided for in the terms of such agreement. The representatives of entities entrusted with tasks related to the Programme, third countries and international organisations are not entitled to take part in committee voting procedures.
- (97) In order to ensure effective assessment of progress of the Programme towards the achievement of its objectives, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending Annex X to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (98) Since the objective of this Regulation cannot be sufficiently achieved by the Member States since it goes beyond the financial and technical capacities of any single Member State, and can therefore, by reason of its scale and effects, be better achieved by action at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

## TITLE I

### GENERAL PROVISIONS

#### *Article 1*

#### **Subject matter**

1. This Regulation establishes the space programme of the Union ('Programme'). It lays down the objectives of the Programme, the budget for the period 2021 – 2027, the forms of Union funding and the rules for providing such funding, as well as the rules for the implementation of the Programme.
2. This Regulation establishes the European Union Agency for the Space Programme ('Agency') that replaces and succeeds the European GNSS Agency established by Regulation (EU) No 912/2010 and lays down the rules of operation of the Agency.

## *Article 2*

### **Definitions**

For the purpose of this Regulation, the following definitions shall apply:

- (1) 'spacecraft' means any space object serving a specific purpose, including active artificial satellites and launcher upper stages;
- (2) 'space weather events' means naturally occurring variations in the space environment between the Sun and the Earth, including solar flares, solar energetic particles, solar wind, and coronal mass ejections that can lead to solar storms (geomagnetic storms, solar radiation storms and ionospheric disturbances) potentially impacting Earth;
- (3) 'near earth objects' means natural objects in the solar system that can potentially impact the Earth;
- (4) 'space object' means any man-made object in outer space;
- (5) 'space situational awareness' ('SSA') means a holistic approach towards the main space hazards, encompassing collision between satellites and space debris, space weather phenomena, and near earth objects;
- (6) 'blending operation' means actions supported by the EU budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the EU budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (7) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;
- (8) 'third country' means a country that is not a Member State of the Union;
- (9) 'SST information' means processed SST data which is readily meaningful to the recipient;
- (10) 'SST data' means physical parameters of space objects acquired by SST sensors or orbital parameters of space objects derived from SST sensors' observations in the framework of the space surveillance and tracking ('SST') component;
- (11) 'return link' means a service contributing to the global monitoring service of aircraft, monitoring defined by the International Civil Aviation Organisation;
- (12) 'Copernicus sentinels' means the Copernicus dedicated satellites, spacecraft or spacecraft payloads for space-borne Earth observation;
- (13) 'Copernicus data' means data provided by the Sentinels, including their metadata;

- (14) ‘Copernicus third-party data’ means data licensed for use by Copernicus which originate from sources other than the Sentinels;
- (15) ‘Copernicus *in situ* data’ means observation data from groundborne, seaborne or airborne sensors, as well as reference and ancillary data licensed or provided for use in Copernicus;
- (16) ‘Copernicus information’ means information generated by the Copernicus services following processing or modelling, including their metadata;
- (17) ‘fiduciary entity’ means a legal entity that is independent from the Commission or a third party and that receives data from the Commission or that third party for the purpose of safe storage and treatment of that data;
- (18) ‘space debris’ means any space object including spacecraft or fragments and elements thereof in Earth's orbit or re-entering Earth's atmosphere, that are non-functional or no longer serve any specific purpose, including parts of rockets or artificial satellites, or inactive artificial satellites;
- (19) ‘SST sensor’ means a device or a combination of devices, ground-based or space-based radars, lasers and telescopes, that is able to measure physical parameters related to space objects, such as size, location and speed;
- (20) ‘GOVSATCOM user’ means a Union or Member State public authority, a body entrusted with the exercise of public authority, or a natural or legal person, duly authorised and entrusted with tasks relating to the supervision and management of security-critical missions, operations and infrastructures;
- (21) ‘GOVSATCOM use-case’ means an operational scenario in a particular environment in which GOVSATCOM users require GOVSATCOM services;
- (22) ‘sensitive non-classified information’ means non-classified information that the Commission must protect because of legal obligations laid down in the Treaties or in acts adopted in implementation thereof, and/or because of its sensitivity;
- (23) ‘Copernicus users’ means:
  - ‘Copernicus core users’ which benefit from Copernicus data and Copernicus information and have the additional role of driving the evolution of Copernicus, comprising the Union institutions and bodies and European national, or regional public bodies entrusted with a public service mission for the definition, implementation, enforcement or monitoring of environmental, civil protection, safety or security policies;
  - ‘other Copernicus users’ which benefit from Copernicus data and Copernicus information and include in particular research and education organisations, commercial and private bodies, charities, non-governmental organisations, and international organisations.

### *Article 3*

#### **Components of the Programme**

The Programme shall consist of the following components:

- (a) an autonomous civil global navigation satellite system (GNSS) under civil control comprising a constellation of satellites, centres and a global network of stations on the ground, offering positioning, navigation and time measurement services and fully integrating the needs and requirements of security (‘Galileo’);
- (b) a regional satellite navigation system which consists of centres and stations on the ground and several transponders installed on geosynchronous satellites and which augments and corrects

the open signals emitted by Galileo and other GNSSs, *inter alia* for air-traffic management and air navigation services ('European Geostationary Navigation Overlay Service or 'EGNOS');

- (c) an autonomous, user-driven, Earth observation system under civil control, offering geo-information data and services, comprising satellites, ground infrastructure, data and information processing facilities, and distribution infrastructure, and fully integrating the needs and requirements of security ('Copernicus');
- (d) a space surveillance and tracking system aiming to improve, operate and provide data, information and services related to the surveillance and tracking of active and inactive spacecraft, discarded launchers stages, debris and debris fragments that orbit around the Earth and complemented by observational parameters related to space weather events and the risk of near earth objects ('NEOs') approaching earth monitoring ('SST');
- (e) a governmental satellite communications service enabling the provision of satellite communications services to Union and Member State authorities managing security critical missions and infrastructures ('GOVSATCOM').

Additionally, the Programme shall include measures for ensuring efficient access to space for the Programme and for fostering an innovative space sector.

#### *Article 4*

#### **Objectives**

1. The Programme shall the following general objectives:
  - (a) provide, or contribute to the provision of, high-quality and up-to-date and, where appropriate, secure space-related data, information and services without interruption and wherever possible at global level, meeting existing and future needs and able to meet the Union's political priorities, including as regards climate change and security and defence;
  - (b) maximise the socio-economic benefits, including by promoting the widest possible use of the data, information and services provided by the Programme's components;
  - (c) enhance the security of the Union and its Member States, its freedom of action and its strategic autonomy, in particular in terms of technologies and evidence-based decision-making;
  - (d) promote the role of the Union in the international arena as a leading actor in the space sector and strengthening its role in tackling global challenges and supporting global initiatives, including with regards to climate change and sustainable development.
2. The Programme shall have the following specific objectives:
  - (a) for Galileo and EGNOS: to provide of state-of-the-art and, where appropriate, secure positioning, navigation and timing services;
  - (b) for Copernicus: to deliver accurate and reliable Earth Observation data and information, supplied on a long-term basis, to support the implementation and monitoring of the Union and its Member States' policies in the fields of the environment, climate change, agriculture and rural development, civil protection, safety and security, as well as the digital economy;

- (c) for Space Situational Awareness ('SSA'): to enhance SST capabilities to monitor, track and identify space objects, to monitor space weather and to map and network Member States NEO capacities;
- (d) for GOVSATCOM: to ensure the long-term availability of reliable, secure and cost-effective satellite communications services;
- (e) to contribute, where this is required for the needs of the Programme, to an autonomous, secure and cost-efficient capability to access space;
- (f) support and reinforce the competitiveness, entrepreneurship, skills and capacity to innovate of legal and natural persons from the Union active or wishing to become active in that sector, with particular regard to the position and needs of small and medium-sized enterprises and start-ups.

#### *Article 5*

#### **Access to space**

The Programme shall support:

- (a) provision of launching services for the needs of the Programme;
- (b) development activities linked to autonomous, reliable and cost-efficient access to space;
- (c) where this is required for the needs of the Programme, the necessary adaptations to the space ground infrastructure.

#### *Article 6*

#### **Actions in support of an innovative Union space sector**

The Programme shall support:

- (a) innovation activities for making best use of space technologies, infrastructure or services;
- (b) the establishment of space-related innovation partnerships to develop innovative products or services and for the subsequent purchase of the resulting supply or services;
- (c) entrepreneurship, from early stage to scaling-up, in accordance with Article 21 and other access to finance provisions as referred to in Article 18 and Chapter I of Title III;
- (d) cooperation between undertakings in the form of space hubs bringing together, at regional and national levels, actors from the space and digital sectors, as well as users, and providing support to citizens and companies to foster entrepreneurship and skills;
- (e) provision of education and training activities;
- (f) access to processing and testing facilities;
- (g) certification and standardisation activities.

#### *Article 7*

#### **Third countries and international organisations associated to the Programme**

1. The Programme's components, with the exception of the SST and GOVSATCOM, shall be open to the following third countries:

- (a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;
  - (b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for their participation in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and them;
  - (c) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and association council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries.
2. The Programme's components, with the exception of the SST, shall also be open to any third country or international organisation, in accordance with the conditions laid down in a specific agreement covering the participation of the third country or of the international organisation to any Union programme, provided that the agreement:
- (a) ensures a fair balance as regards the contributions and benefits of the third country or international organisation participating in the Union programmes;
  - (b) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];
  - (c) does not confer to the third country or international organisation a decisional power on the programme;
  - (d) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.
3. The Programme's components shall only be open to the third countries and international organisations referred to in paragraphs 1 and 2 provided that the essential security interests of the Union and its Member States are preserved.

#### *Article 8*

#### **Access to SST, GOVSATCOM and PRS by third countries or international organisations**

1. Third countries or international organisations may become GOVSATCOM participant referred to in Article 67 or obtain access to the services provided by the SST only where, in accordance with the procedure provided for in Article 218 of the Treaty on the Functioning of the European Union, they enter into an agreement laying down the terms and conditions of the detailed rules for access to such data, information, capacities and services, and the framework for exchanging and protecting classified information.
2. The access of third countries or international organisations to the Public Regulated Service provided by Galileo shall be governed by Article 3(5) of Decision No 1104/2011/EU of the European Parliament and of the Council<sup>28</sup>.

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<sup>28</sup> OJ L 287, 4.11.2011, p. 1–8.

## *Article 9*

### **Ownership and use of assets**

1. The Union shall be the owner of all tangible and intangible assets created or developed under the Programme's components. To that aim, the Commission shall take the necessary steps to ensure that relevant contracts, agreements and other arrangements relating to those activities which may result in the creation or development of such assets contain provisions ensuring such an ownership regime regarding those assets.
2. Paragraph 1 shall not apply to the tangible and intangible assets created or developed under the Programme's components, where the activities which may result in the creation or development of such assets:
  - (a) are carried out pursuant to grants or prizes fully financed by the Union;
  - (b) are not fully financed by the Union, or
  - (c) relate to the development, manufacture or use of PRS receivers incorporating EUCI, or components of such receivers.
3. The Commission shall take the necessary steps to ensure that the contracts, agreements or other arrangements relating to the activities referred to in the first paragraph contain provisions setting out the appropriate ownership regime for those assets and, as regards point (c) that the Union can freely use the PRS receivers in accordance with Decision 1104/2011/EU.
4. The Commission shall seek to conclude contracts or other arrangements with third parties with regard to:
  - (a) pre-existing ownership rights in respect of tangible and intangible assets created or developed under the Programme's components;
  - (b) the acquisition of the ownership or license rights in respect of other tangible or intangible assets necessary for the implementation of the Programme.
5. The Commission shall ensure, by means of an appropriate framework, the optimal use of the tangible and intangible assets referred to in paragraphs 1 and 2 owned by the Union.
6. In particular, where those assets consist of intellectual property rights, the Commission shall manage those rights as effectively as possible, taking account of the need to protect and give value to them, of the legitimate interests of all stakeholders concerned and of the need for harmonious development of markets and new technologies and for the continuity of the services provided by the Programme's components. To that end, it shall ensure in particular that the relevant contracts, agreements and other arrangements include the possibility of transferring those rights to third parties or granting third-party licences for those rights and that the Agency can freely enjoy those rights where necessary for carrying out their tasks under this Regulation.

## *Article 10*

### **Absence of guarantee**

The services, data and information provided by the Programme's components shall be provided without any express or implied guarantee as regards their quality, accuracy, availability, reliability, speed and suitability for any purpose. To that aim, the Commission shall take the necessary steps to ensure that the users of those services, data and information are informed, in an appropriate manner, of the absence of any such guarantee.

TITLE II  
**BUDGETARY CONTRIBUTION AND MECHANISMS**

*Article 11*

**Budget**

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR [16] billion in current prices.  
The indicative distribution of the amount referred to in the first subparagraph shall be as follows:
  - (a) for Galileo and EGNOS: EUR [9,7] billion;
  - (b) for Copernicus: EUR [5,8] billion;
  - (c) for SSA/GOVSATCOM: EUR [0,5] billion.
2. Cross-cutting activities as foreseen by Article 3 shall be financed under the Programme's components.
3. The Union budgetary appropriations assigned to the Programme shall cover all the activities required to fulfil the objectives referred to in Article 4. Such expenditure may cover:
  - (a) studies and meetings of experts, in particular compliance with its cost and time constraints;
  - (b) information and communication activities, including corporate communication on the policy priorities of the Union where they are directly linked to the objectives of this Regulation, with a particular view to creating synergies with other Union policies;
  - (c) the information technology networks whose function it is to process or exchange information, and the administrative management measures, including in the field of security, implemented by the Commission;
  - (d) technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.
4. Actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.
5. The budget commitments relating to the Programme and which cover activities extending over more than one financial year may be broken down over several years into annual instalments.
6. Resources allocated to Member States under shared management may, at their request, be transferred to the Programme. The Commission shall implement those resources directly in accordance with point (a) of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that Article. Where possible those resources shall be used for the benefit of the Member State concerned.

*Article 12*

**Assigned revenue**

1. The revenue generated by the components of the Programme shall be paid into the Union budget and used to finance the component which generated the revenue.

2. The Member States may endow a component of the Programme with an additional financial contribution on condition that such additional elements do not create any financial or technical burden or any delay for the component concerned.
3. The additional funding referred to in this Article shall be treated as external assigned revenue in accordance with [Article 21(2)] of the Financial Regulation.

### *Article 13*

#### **Implementation and forms of EU funding**

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation or in indirect management with bodies referred to in [Article 62(1)(c)] of the Financial Regulation.
2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.

### TITLE III

## **FINANCIAL PROVISIONS**

### CHAPTER I

#### **Procurement**

### *Article 14*

#### **Principles of procurement**

The contracting authorities shall act in accordance with the following principles in procurement procedures for the purpose of the Programme:

- (a) to promote in all Member States, throughout the supply chain, the widest and most open participation possible of start-ups, new entrants and small and medium sized enterprises and other economic operators, including the requirement of sub-contracting by the tenderers;
- (b) to avoid, where possible, the over-reliance on a single provider, in particular for critical equipment and services, taking into account the objectives of technological independence and continuity of services;
- (c) by derogation from Article 167 of the Financial Regulation, to use, wherever appropriate, multiple supply sources in order to ensure better overall control of all the components of the Programme, their cost and schedule;
- (d) to foster the autonomy of the Union, in particular in technological terms;
- (e) to ensure the security of the components of the Programme and to contribute to the protection of the essential security interests of the Union and its Member States;
- (f) to satisfy appropriate social and environmental criteria.

### *Article 15*

#### **Conditional stage-payment contracts**

1. The contracting authority may award a contract in the form of a conditional stage-payment contract.

2. A conditional stage-payment contract shall include a fixed stage which results in a firm commitment to provide the works, supplies or services contracted for that stage, and one or more stages which are conditional in terms of both budget and execution. The tender documents refer to the specific features of conditional stage-payment contracts. In particular, they shall specify the subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for the provision of works, supplies and services at each stage.
3. The fixed stage obligations shall be part of a consistent whole; the same is true for the obligations under each conditional stage, taking into account the obligations under the previous stages.
4. Performance of each conditional stage shall be subject to a decision by the contracting authority, notified to the contractor in accordance with the contract.

#### *Article 16*

#### **Cost-reimbursement contracts**

1. The contracting authority may opt for a full or partial cost-reimbursement based contract under the conditions laid down in paragraph 3.

The price to be paid shall consist in the reimbursement of all direct costs actually incurred by the contractor in performing the contract, such as expenditure on labour, materials, consumables, and use of the equipment and infrastructures necessary to perform the contract, indirect costs and either a profit, or an incentive fee compensation based on achieving objectives in respect of performance and delivery schedules.
2. Cost reimbursement contracts shall stipulate a maximum ceiling price.
3. The contracting authority may opt for a full or partial cost-reimbursement contract in cases where it is difficult or unsuitable to provide an accurate fixed price due to the uncertainties inherent in performance of the contract because:
  - (a) the contract has very complex features or features which require the use of a new technology and, therefore, includes a significant number of technical risks; or
  - (b) the activities subject to the contract must, for operational reasons, start immediately even though it is not yet possible to determine a firm fixed price in full due to significant risks or because the performance of the contract depends in part on the performance of other contracts.
4. The ceiling price for a full or partial cost-reimbursement contract shall be the maximum price payable. The contract price may be amended in accordance with [Article 172] of the Financial Regulation.

#### *Article 17*

#### **Subcontracting**

1. To encourage new entrants, small and medium enterprises and start-ups, and to offer the widest possible geographic coverage while protecting the Union's strategic autonomy, the contracting authority may request that the tenderer subcontract part of the contract by competitive tendering at the appropriate levels of subcontracting to companies other than those which belong to the tenderer's group.

2. The contracting authority shall express the requisite share of the contract to be subcontracted in the form of a range from a minimum to a maximum percentage.
3. Any derogation from a request in accordance with paragraph 1 shall be justified by the tenderer.

## CHAPTER II

### **Grants, prizes and blending operations**

#### *Article 18*

##### **Grants and prizes**

1. The Union may cover up to 100% of the eligible costs, without prejudice to the co-financing principle.
2. By way of derogation from [Article 181(6)] of the Financial Regulation, indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiary, as well as financial support to third parties.
3. Notwithstanding paragraph 2, indirect costs may be declared in the form of a lump sum or unit costs when provided for in the work programme referred to in Article 100.
4. By way of derogation from [Article 204] of the Financial Regulation, the maximum amount of financial support that can be paid to a third party shall not exceed EUR 200 000.

#### *Article 19*

##### **Joint calls for grants**

The Commission or funding body may issue a joint call for proposals with:

- (a) third countries, including their scientific and technological organisations or agencies;
- (b) international organisations;
- (c) non-profit legal entities.

In the case of a joint call, joint procedures shall be established for selection and evaluation of proposals. The procedures must involve a balanced group of experts appointed by each party.

#### *Article 20*

##### **Grants for pre-commercial procurement and procurement of innovative solutions**

1. Actions may involve or have as their primary aim pre-commercial procurement or public procurement of innovative solutions that shall be carried out by beneficiaries which are contracting authorities or contracting entities as defined in Directives 2014/24/EU, 2014/25/EU and 2009/81/EC of the European Parliament and of the Council.
2. The procurement procedures:
  - (a) shall comply with the principles of transparency, non- discrimination, equal treatment, sound financial management, proportionality and competition rules;

- (b) for pre-commercial procurement, may provide for specific conditions such as the place of performance of the procured activities being limited to the territory of the Member States and of associated countries;
  - (c) may authorise the award of multiple contracts within the same procedure (multiple sourcing); and
  - (d) shall provide for the award of the contracts to the tender(s) offering best value for money while ensuring absence of conflict of interest.
3. The contractor generating results in pre-commercial procurement shall own at least the attached intellectual property rights. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the participating contractors to grant, non-exclusive licences to third parties to exploit the results for the contracting authority under fair and reasonable conditions without any right to sub-license. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, the contracting authorities can require it to transfer any ownership of the results to the contracting authorities.

#### *Article 21*

### **Blending operations**

Blending operations decided under this Programme shall be implemented in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.

#### CHAPTER IV

### **Other financial provisions**

#### *Article 22*

### **Cumulative, complementary and combined funding**

1. An action that has received a contribution from another Union programme may also receive a contribution under the Programme, provided that the contributions do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
2. Actions awarded a Seal of Excellence certification, or which shall comply with the following cumulative conditions:
  - (a) they have been assessed in a call for proposals under the Programme;
  - (b) they comply with the minimum quality requirements of that call for proposals;
  - (c) they may not be financed under that call for proposals due to budgetary constraints;

may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund+ or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [67] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] or Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the Fund providing support shall apply.

### *Article 23*

#### **Partnerships**

1. The Programme may be implemented through partnerships.
2. The partnerships in which the Union participate shall:
  - (a) be established in cases where they will achieve the objectives of the Union space programme more effectively than the Union alone;
  - (b) be based on the principles of Union added value, transparency, openness, impact, leverage effect, long-term financial commitment of all the involved parties, flexibility, coherence and complementarity with Union, local, regional national and international initiatives, and shall take into account risk sharing, and conditions for liability and ownership of tangible and intangible assets.

### *Article 24*

#### **Joint procurement**

1. In addition to the provisions of [Article 165] of the Financial Regulation, the Commission and the Agency may carry out joint procurement procedures with the European Space Agency or other international organisations involved in implementing the components of the Programme.
2. The procurement rules applicable in [Article 165] of the Financial Regulation shall apply by analogy provided that in any case the procedural provisions applicable to the Institutions are applied.

### *Article 25*

#### **Protection of essential security interests**

Where necessary for the protection of the essential security interest of the Union and its Member States, in particular with regard to the need to preserve the integrity and resilience of the Union systems, as well as the autonomy of the industrial basis on which they rely, the Commission shall set the requisite eligibility conditions applicable to the procurement, grants or prizes covered by this Title. Particular regard shall be had, for that purpose, to the need for eligible undertakings to be established in a Member State, to commit to carry out any relevant activities inside the Union and to be effectively controlled by Member States or nationals of Member States. Those conditions shall be included in the documents relating to the procurement, grant or prize, as applicable. In the case of procurement, the conditions shall apply to the full life cycle of the resulting contract.

### *Article 26*

#### **Protection of the financial interests of the Union**

Where a third country participates in the Programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorizing officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

### TITLE IV

## GOVERNANCE OF THE PROGRAMME

### *Article 27*

#### **Principles of governance**

The governance of the Programme shall be based on the following principles:

- (a) strict distribution of tasks and responsibilities between the entities involved in the implementation of the Programme, in particular between the Member States, the Commission, the Agency and the European Space Agency;
- (b) strong control of the Programme, including strict adherence to cost and schedule by all the entities, within their respective fields of competence in accordance with this Regulation;
- (c) optimisation and rationalisation of the use of structures;
- (d) systematic consideration of the needs of users of the services provided by the Programme's components, as well as of scientific and technological evolutions relating to those services;
- (e) constant efforts to control and reduce risks.

### *Article 28*

#### **Role of the Member States**

1. The Member States may participate in the Programme by contributing with their technical competence, know-how and assistance, in particular in the field of safety and security, and, where necessary, by making available to the Union the information and infrastructure in their possession or located on their territory, including by ensuring an efficient and obstacle free access and use of in-situ data and cooperating with the Commission to improve the availability of in-situ data required by the Programme.
2. The Commission or, for the tasks referred to in Article 30, the Agency may entrust specific tasks to Member States or national agencies or to groups of these Member States or national agencies. The Member States shall take all the necessary measures to ensure the smooth functioning of the Programme and the promotion of their use, including by helping to protect the frequencies required for this programme.
3. The Member States and Commission shall work together in order to develop the in-situ component necessary for the uptake of space systems and to facilitate the use of in-situ data sets to their full potential.
4. In the field of security, the Member States shall perform the tasks referred to in Article 34(4).

### *Article 29*

#### **Role of the Commission**

1. The Commission shall have overall responsibility for the implementation of the Programme, including in the field of security. It shall, in accordance with this Regulation, determine the priorities and long-term evolution of the Programme and shall supervise its implementation, having due regard to its impact on other policies of the Union.
2. The Commission shall manage the component of the Programme where such management is not entrusted to another entity.
3. The Commission shall ensure a clear division of tasks between the various entities involved in the Programme and coordinate the activities of those entities.

4. When necessary for the smooth functioning of the Programme and the smooth provision of the services provided by the Programme's components, the Commission shall, by means of implementing acts, determine the technical and operational specifications required for the implementation of and evolution of those components and of the services they provide after having consulted users and all the other relevant stakeholders. When determining those technical and operational specifications, the Commission shall avoid reducing the general security level and to meet a backward compatibility imperative.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

5. The Commission shall promote and ensure the uptake and use of the data and services provided by the Programme's components in the public and private sectors, including by supporting appropriate development of those services and by fostering a stable long-term environment. It shall develop synergies between the applications of the various components of the Programme. It shall ensure complementarity, consistency, synergies and links between the Programme and other Union actions and programmes.
6. Where appropriate, it shall ensure the coordination with activities carried out in the space sector at Union, national and international level. It shall encourage cooperation between the Member States and promote convergence of their technological capacities and developments in the space domain.

#### *Article 30*

#### **Role of the Agency**

1. The Agency shall have the following own tasks:
  - (a) ensure, through its Security Accreditation Board, the security accreditation of all the components of the Programme in accordance with Chapter II of Title V;
  - (b) perform the tasks referred to in Article 34(2) and (3);
  - (c) undertake communication and promotion activities, and activities relating to the commercialisation of the services offered by Galileo and EGNOS;
  - (d) provide technical expertise to the Commission.
2. The Commission shall entrust the following tasks to the Agency:
  - (a) managing the exploitation of EGNOS and Galileo, as referred to in Article 43;
  - (b) overarching coordination of user-related aspects of GOVSATCOM in close collaboration with relevant Union agencies and EEAS for crisis management missions and operations;
  - (c) implementing activities relating to the development of downstream applications and services based on the components of the Programme.
3. The Commission may entrust other tasks to the Agency, including undertaking communication, promotion, and marketing of data and information activities, as well as other activities related to user uptakes with regard to the Programme's components other than Galileo and EGNOS.
4. The tasks referred to in paragraphs 2 and 3 shall be entrusted by the Commission by means of a contribution agreement in accordance with [Article 2(18)] and [Title VI] of the Financial Regulation.

**Role of the European Space Agency**

1. The European Space Agency may be entrusted with the following tasks:
  - (a) as regards Copernicus: development, design and construction of the Copernicus space infrastructure, including the operations of that infrastructure;
  - (b) as regards Galileo and EGNOS: systems evolution, development of the ground segment and the design and development of satellites;
  - (c) as regards all the components of the Programme with research and development activities in its fields of expertise.
2. The Commission shall conclude with the Agency and the European Space Agency a financial framework partnership agreement as provided for in [Article 130] of the Financial Regulation. That financial framework partnership agreement shall:
  - clearly define the responsibilities and obligations of the European Space Agency with regard to the Programme;
  - require that the European Space Agency complies with the security rules of the Union programme, in particular with regard to the processing of classified information;
  - stipulate the conditions of the management of funds entrusted to the European Space Agency, particularly with regard to public procurement, management procedures, the expected results measured by performance indicators, applicable measures in the event of deficient or fraudulent implementation of the contracts in terms of costs, schedule and results, as well as the communication strategy and the rules regarding ownership of all tangible and intangible assets; these conditions shall be in conformity with Titles III and V of this regulation and the Financial Regulation;
  - require the participation of the Commission and, when relevant, the Agency in the Tender Evaluation Board meetings of the European Space Agency with regard to the Programme;
  - establish the monitoring and control measures, which shall include, in particular, a cost forecast system, the systematic provision of information to the Commission or, where appropriate, to the Agency, on costs and schedule, and in the event of a discrepancy between the planned budgets, performance and schedule, corrective action ensuring performance of the tasks assigned within the limits of the allocated budgets and penalties against the European Space Agency where this discrepancy is directly attributable to it;
  - establish the principles for the remuneration of the European Space Agency, which shall be proportionate to the difficulty of the tasks to be carried out, in line with market prices and the fees of the other entities involved, including the Union, and may, where appropriate, be based on performance indicators; those fees shall not cover general overheads which are not associated with the activities entrusted to the European Space Agency by the Union.
3. The conclusion of the financial framework partnership agreement referred to in paragraph 2 shall be contingent upon the establishment, within the European Space Agency, of internal structures and of an operational method, in particular for decision-making, management methods and liability, which make it possible to ensure maximum protection for the interests of the Union and to comply with its decisions, including for the activities financed by the European Space Agency, which have an impact on the Programme.

4. Without prejudice to the financial framework partnership agreement referred to in paragraph 4, the Commission or the Agency may ask the European Space Agency to provide technical expertise and the information necessary to perform the tasks which are assigned to them by this Regulation.

#### *Article 32*

##### **Role of other entities**

1. The Commission may entrust, in full or in part, by means of contribution agreements the implementation of the Programme's components to entities other than those referred to in Article 30 and 31, including :
  - (a) the operation of the Copernicus space infrastructure or parts thereof, which may be entrusted EUMETSAT;
  - (b) the implementation of the Copernicus services or parts thereof to relevant agencies, bodies or organisations.
2. The criteria for the selection of such entrusted entities shall, in particular, reflect their ability to ensure the continuity and, where appropriate, the security of the operations with no or minimal disruption of Copernicus activities.

#### TITLE V

### **SECURITY OF THE PROGRAMME**

#### CHAPTER I

##### **Security of the Programme**

#### *Article 33*

##### **Principles of security**

The security of the Programme should be based on the following principles:

- (a) to take account of the experience of the Member States in the field of security and draw inspiration from their best practices;
- (b) to use internationally recognised standards and the Union security rules, which provide for a separation between operational functions and those associated with accreditation.

#### *Article 34*

##### **Governance of security**

1. The Commission, in its field of competence, shall ensure a high degree of security with regard to, in particular:
  - (a) the protection of infrastructure, both ground and space, and of the provision of services, particularly against physical or cyber-attacks;
  - (b) the control and management of technology transfers;
  - (c) the development and preservation within the Union of the competence and know-how acquired;
  - (d) the protection of sensitive non-classified and classified information.

To that end, the Commission shall ensure that a risk and threat analysis is performed for each Programme's component. Based on that risk and threat analysis, it shall determine, by means of implementing acts, for each component of the Programme, the general security requirements. In doing so, the Commission shall take account of the impact of those requirements on the smooth functioning of that component, in particular in terms of cost, risk management and schedule, and shall ensure not to reduce the general level of security or undermine the functioning of the existing equipment based on that component. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

2. The entity responsible for the management of a component of the Programme shall be responsible for managing the security of that component and shall, to that end, carry out risk and threat analysis and all the necessary activities to ensure and monitor the security of that component, in particular setting of technical specifications and operational procedures, and monitor their compliance with the general security requirements referred to in paragraph 1.
3. The Agency shall:
  - (a) ensure the security accreditation of all the components of the Programme in accordance with Chapter II of this Title and the competences of the Member States;
  - (b) ensure the operation of the Galileo Security Monitoring Centre in accordance with the requirements referred to in paragraph 2 and the instructions developed under the scope of Decision 2014/496/CFSP;
  - (c) perform the tasks assigned to it under Decision No 1104/2011/EU;
  - (d) provide the Commission with its technical expertise and supply any information necessary for the performance of its tasks under this Regulation.
4. The Member States shall:
  - (a) take measures which are at least equivalent to those necessary for the protection of European critical infrastructures within the meaning of Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection<sup>29</sup> and to those necessary for the protection of their own national critical infrastructures in order to ensure the protection of the ground infrastructure on the ground which form an integral part of the Programme and which are located on their territory;
  - (b) perform the security accreditation tasks referred to in Article 41.
6. The entities involved in the Programme shall take all the measures necessary to ensure the security of the Programme.

## CHAPTER II

### Security accreditation

#### *Article 35*

#### **Security Accreditation Authority**

The Security Accreditation Board established within the Agency shall be the security accreditation authority for all the components of the Programme.

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<sup>29</sup> OJ L 345, 23.12.2008, p. 75–82.

*Article 36*

**General principles of security accreditation**

Security accreditation activities for all the components of the Programme shall be conducted in accordance with the following principles:

- (a) security accreditation activities and decisions shall be undertaken in a context of collective responsibility for the security of the Union and of the Member States;
- (b) efforts shall be made for decisions within the Security Accreditation Board to be reached by consensus;
- (c) security accreditation activities shall be carried out using a risk assessment and management approach, considering risks to the security of the component as well as the impact on cost or schedule of any measure to mitigate the risks, taking into account the objective not to lower the general level of security of this component;
- (d) security accreditation decisions of the Security Accreditation Board shall be prepared and taken by professionals who are duly qualified in the field of accrediting complex systems, have an appropriate level of security clearance and act objectively;
- (e) efforts shall be made to consult all relevant parties with an interest in security issues for this component;
- (f) security accreditation activities shall be carried out by all relevant stakeholders of the component according to a security accreditation strategy, without prejudice to the role of the Commission;
- (g) security accreditation decisions of the Security Accreditation Board shall, following the process defined in the relevant security accreditation strategy defined by that Board, be based on local security accreditation decisions taken by the respective national security accreditation authorities of the Member States;
- (h) a permanent, transparent and fully understandable monitoring process shall ensure that the security risks for the component are known, that security measures are defined to reduce such risks to an acceptable level in view of the security needs of the Union and of its Member States and for the smooth running of the component and that those measures are applied in accordance with the concept of defence in depth. The effectiveness of such measures shall be continuously evaluated. The process relating to security risk assessment and management shall be conducted as an iterative process jointly by the stakeholders of the component;
- (i) security accreditation decisions shall be taken by the Security Accreditation Board in a strictly independent manner, including with regard to the Commission and the other bodies responsible for the implementation of the component and for the provision of related services, and with regard to the Executive Director and the Administrative Board of the Agency;
- (j) security accreditation activities shall be carried out with due regard for the need for adequate coordination between the Commission and the authorities responsible for implementing security provisions;
- (k) the security accreditation of EGNOS performed by the Security Accreditation Board shall be without prejudice to the accreditation activities performed, for aviation, by the European Aviation Safety Agency.

*Article 37*

**Tasks of the Security Accreditation Board**

1. The Security Accreditation Board shall perform its tasks without prejudice to the responsibilities of the Commission or to those entrusted to the Agency's other bodies, in particular for matters relating to security, and without prejudice to the competences of the Member States as regards security accreditation.
2. The Security Accreditation Board shall have the following tasks:
  - (a) defining and approving a security accreditation strategy setting out:
    - i) the scope of the activities necessary to perform and maintain the accreditation of the components of the Programme or of parts of these components and any interconnections between them and other systems or components;
    - ii) a security accreditation process for the components of the Programme or parts of these components, with a degree of detail commensurate with the required level of assurance and clearly stating the accreditation conditions;
    - iii) the role of relevant stakeholders involved in the accreditation process;
    - iv) an accreditation schedule compliant with the phases of the components of the Programme, in particular as regards the deployment of infrastructure, service provision and evolution;
    - v) the principles of security accreditation for networks connected to systems set up under the components of the Programme or for parts of these components and for equipment connected to systems established by these components, which shall be performed by the national entities of the Member States competent in security matters;
  - (b) taking security accreditation decisions, in particular on the approval of satellite launches, the authorisation to operate the systems set up under the components of the Programme or the elements of these components in their different configurations and for the various services they provide, up to and including the signal in space, and the authorisation to operate the ground stations. As regards the networks and the equipment connected to the PRS service referred to in Article 44 , or to any other secure service stemming from the components of the Programme, the Security Accreditation Board shall take decisions only on the authorisation of bodies to develop or manufacture sensitive PRS technologies, PRS receivers or PRS security modules, or any other technology or equipment which has to be checked under the general security requirements referred to in Article 34(1), taking into account the advice provided by national entities competent in security matters and the overall security risks;
  - (c) examining and, except as regards documents which the Commission is to adopt under Article 34(1) of this Regulation and Article 8 of Decision No 1104/2011/EU, approving all documentation relating to security accreditation;
  - (d) advising, within its field of competence, the Commission on the production of draft texts for acts referred to in Article 34(1) of this Regulation and Article 8 of Decision No 1104/2011/EU, including for the establishment of security operating procedures (SecOps), and providing a statement with its concluding position;
  - (e) examining and approving the security risk assessment drawn up in accordance with the monitoring process referred to in Article 36(h), taking into account compliance with the documents referred to in point (c) of this paragraph and those drawn up in accordance with Article 34(1) of this Regulation, and with Article 8 of Decision No 1104/2011/EU; and cooperating with the Commission to define risk mitigation measures;

- (f) checking the implementation of security measures in relation to the security accreditation of the components of the Programme by undertaking or sponsoring security assessments, inspections, audits or reviews, in accordance with Article 41(b) of this Regulation;
  - (g) endorsing the selection of approved products and measures which protect against electronic eavesdropping (TEMPEST) and of approved cryptographic products used to provide security for the components of the Programme;
  - (h) approving or, where relevant, participating in the joint approval, together with the relevant entities competent in security matters, of the interconnection between the systems established under the components of the Programme or the parts of these components and other systems;
  - (i) agreeing with the relevant Member State the template for access control referred to in Article 41(c);
  - (j) preparing risk reports and informing the Commission, the Administrative Board and the Executive Director of its risk assessment and advising them on residual risk treatment options for a given security accreditation decision;
  - (k) assisting, in close liaison with the Commission, the Council and the High Representative in the implementation of Decision 2014/496/CFSP upon a specific request from the Council and/or the High Representative;
  - (l) carrying out the consultations which are necessary to perform its tasks;
  - (m) adopting and publishing its rules of procedure.
3. Without prejudice to the powers of the Member States, a special subordinate body representing the Member States shall be set up under the supervision of the Security Accreditation Board to perform the tasks of the Crypto Distribution Authority (CDA) relating to the management of EU cryptographic material related to the Programme, with particular regard to:
- (a) the management of flight keys and other keys necessary for the functioning of Galileo;
  - (b) the verification of the establishment and enforcement of procedures for accounting, secure handling, storage and distribution of the PRS keys of Galileo.

#### *Article 38*

#### **Composition of the Security Accreditation Board**

1. The Security Accreditation Board shall be composed of a representative of each Member State, a representative of the Commission and a representative of the High Representative of the Union for Foreign Affairs and Security Policy ('High Representative'). The term of office of the members of the Security Accreditation Board shall be four years and shall be renewable.
2. A representative of the European Space Agency shall be invited to attend the meetings of the Security Accreditation Board as an observer. On an exceptional basis, representatives of Union Agencies, third countries or international organisations may also be invited to attend meetings as observers for matters directly relating to those third countries or international organisations, especially matters concerning the infrastructure belonging to them or established on their territory. Arrangements for such participation of representatives of third countries or international organisations and the conditions therefor shall be laid down in the

relevant agreements and shall comply with the rules of procedure of the Security Accreditation Board.

#### *Article 39*

### **Voting rules of the Security Accreditation Board**

If consensus according to the general principles referred to in Article 36 cannot be reached, the Security Accreditation Board shall take decisions on the basis of qualified majority voting, in accordance with Article 16 of the Treaty on European Union. The representative of the Commission and the representative of the High Representative shall not vote. The Chairperson of the Security Accreditation Board shall sign, on behalf of the Security Accreditation Board, the decisions adopted by the Security Accreditation Board.

#### *Article 40*

### **Communication and impact of decisions of the Security Accreditation Board**

1. The decisions of the Security Accreditation Board shall be addressed to the Commission.
2. The Commission shall keep the Security Accreditation Board continuously informed of the impact of any decisions envisaged by the Security Accreditation Board on the proper conduct of the components of the Programme, and of the implementation of residual risk treatment plans. The Security Accreditation Board shall take note of any such information from the Commission.
3. The Commission shall keep the European Parliament and the Council informed, without delay, of the impact of the adoption of the security accreditation decisions on the proper conduct of the components of the Programme. If the Commission considers that a decision taken by the Security Accreditation Board may have a significant effect on the proper conduct of these components, for example in terms of costs, schedule or performance, it shall immediately inform the European Parliament and the Council.
4. The Administrative Board shall be kept periodically informed of the evolution of the work of the Security Accreditation Board.
5. The timetable for the work of the Security Accreditation Board shall not hamper the timetable of activities provided in the work programme referred to in Article 100.

#### *Article 41*

### **Role of the Member States in security accreditation**

Member States shall:

- (a) transmit to the Security Accreditation Board all information they consider relevant for the purposes of security accreditation;
- (b) permit duly authorised persons appointed by the Security Accreditation Board, in agreement with and under the supervision of national entities competent in security matters, to have access to any information and to any areas and/or sites related to the security of systems falling within their jurisdiction, in accordance with their national laws and regulations, and without any discrimination on ground of nationality of nationals of Member States, including for the purposes of security inspections, audits and tests as decided by the Security Accreditation Board and of the security risk monitoring process referred to in Article 36(h). These audits and tests shall be performed in accordance with the following principles:

- i) the importance of security and effective risk management within the entities inspected shall be emphasised;
  - ii) countermeasures to mitigate the specific impact of loss of confidentiality, integrity or availability of classified information shall be recommended;
- (c) each be responsible for devising a template for access control, which is to outline or list the areas/sites to be accredited, and which shall be agreed in advance between the Member States and the Security Accreditation Board, thereby ensuring that the same level of access control is being provided by all Member States;
- (d) be responsible, at local level, for the accreditation of the security of sites that are located within their territory and form part of the security accreditation area for the components of the Programme, and report, to this end, to the Security Accreditation Board.

### CHAPTER III

#### **Protection of classified information**

##### *Article 42*

#### **Application of the rules on classified information**

Within the scope of this Regulation:

- (a) each Member State shall ensure that its national security regulations offer a degree of protection of European Union classified information equivalent to that provided by the rules on security as set out in Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information<sup>30</sup> and by the security rules of the Council set out in the Annexes to Council Decision of 23 September 2013 on the security rules for protecting EU classified information<sup>31</sup>;
- (b) Member States shall without delay inform the Commission of the national security regulations referred to in point (a);
- (c) natural persons resident in and legal persons established in third countries may deal with European Union classified information regarding the Programme only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in Commission Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU. The equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including industrial security matters if relevant, concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU;
- (d) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Commission Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to European Union classified information where deemed necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need-to-know and the degree of advantage to the Union.

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<sup>30</sup> OJ L 72, 17.3.2015, p. 53–88.

<sup>31</sup> OJ L 274, 15.10.2013, p. 1–50.

TITLE VI  
**Galileo and EGNOS**

*Article 43*

**Eligible actions**

Eligible actions under Galileo and EGNOS shall cover:

- (a) the management, maintenance, continuous improvement, evolution and protection of the space-based infrastructure, including upgrades and obsolescence management;
- (b) the management, maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular networks, sites and support facilities, including upgrades and obsolescence management;
- (c) the development of future generations of the systems and the evolution of the services provided by Galileo and EGNOS, without prejudice to future decisions on the Union financial perspectives;
- (d) certification and standardisation operations;
- (e) the provision and market development of the services provided by Galileo and EGNOS;
- (f) cooperation with other regional or global satellite navigation systems;
- (g) all elements substantiating the reliability of the system and its exploitation;
- (h) coordination activities relating to the provision of services and the extension of their coverage.

*Article 44*

**Services provided by Galileo**

1. The services provided by Galileo shall comprise:
  - (a) a Galileo open service (GOS), which shall be free of charge to the user and provides positioning and synchronisation information intended mainly for high-volume satellite navigation applications for use by consumers;
  - (b) a high-accuracy service (HAS), which shall be free of charge for users and shall provide, through additional data disseminated in a supplementary frequency band, high-accuracy positioning and synchronisation information intended mainly for satellite navigation applications for professional or commercial use;
  - (c) a signal authentication service (SAS), based on the encrypted codes contained in the signals, intended mainly for satellite navigation applications for professional or commercial use;
  - (d) a public regulated service (PRS), which shall be restricted to government-authorised users regulated in accordance with Decision 1104/2011/EU, for sensitive applications which require a high level of service continuity, including in the area of security and defence, using strong, encrypted signals;
  - (e) an emergency service (ES), broadcasting, through emitting signals, warnings regarding natural disasters or other emergencies in particular areas;
  - (f) a timing service (TS), which is free of charge to the user and provides an accurate and robust reference time as well as realization of the coordinated universal time, facilitating

the development of timing applications based on Galileo and the use in critical applications.

2. Galileo shall also contribute to:
  - (a) the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting distress signals transmitted by beacons and relaying messages to them via a ‘return link’;
  - (b) integrity-monitoring services standardized at the Union or international level for use by safety-of-life services, on the basis the signals of Galileo open service and in combination with EGNOS and other satellite navigation systems;
  - (c) space weather information and early warning services provided via the Galileo ground-based infrastructure, intended mainly to reduce the potential risks to users of the services provided by Galileo and other GNSSs related to space weather events.

#### *Article 45*

#### **Services provided by EGNOS**

1. The services provided by EGNOS shall comprise:
  - (a) an EGNOS open service (EOS), which shall be free of charge for the user, and shall provide positioning and synchronisation information intended mainly for high-volume satellite navigation applications for use by consumers;
  - (b) EGNOS data access service (EDAS), which shall provide positioning and synchronisation information intended mainly for satellite navigation applications for professional or commercial use, offering improved performance and data with greater added value than those obtained through the EOS;
  - (c) a safety-of-life (SoL) service, which shall be free of direct user charges and shall provide positioning and synchronisation information with a high level of continuity, availability and accuracy, including an integrity message alerting users to any failure in, or out-of-tolerance signals emitted by, Galileo and other GNSSs which it augments in the coverage area, intended mainly for users for whom safety is essential, in particular in the sector of civil aviation for the purpose of air navigation services.
2. The services referred to in paragraph 1 shall be provided as a priority on the territory of Member States geographically located in Europe.

The geographical coverage of EGNOS may be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of third countries in the European Neighbourhood Policy, subject to technical feasibility and, for the SoL service, on the basis of international agreements.
3. The cost of such extension, including the related operating costs specific to these regions, shall not be covered by the budget referred to in Article 11. Such extension shall not delay the offering of the services referred to in paragraph 1 throughout the territory of Member States geographically located in Europe.

#### *Article 46*

#### **Implementing measures for Galileo and EGNOS**

Where necessary for the smooth functioning of Galileo and EGNOS and their adoption by the market, the Commission shall lay down, where necessary, measures required to:

- (a) manage and reduce the risks inherent in the operation of Galileo and EGNOS;
- (b) specify the key decision stages to monitor and evaluate the implementation of Galileo and EGNOS;
- (c) determine the location of the centres belonging to the ground-based infrastructure of Galileo and EGNOS in accordance with security requirements, following an open and transparent process, and ensure their operation.

Those implementing measures shall be adopted in accordance with the examination procedure referred to in Article 107(3).

#### *Article 47*

### **Compatibility and interoperability**

- 1. Galileo and EGNOS, and the services which they provide, shall be fully compatible and interoperable from a technical point of view.
- 2. Galileo and EGNOS, and the services which they provide, shall be compatible and interoperable with other satellite navigation systems and with conventional means of radio navigation, where the necessary compatibility and interoperability requirements are laid down in international agreements.

#### TITLE VII

### **Copernicus**

#### CHAPTER I

### **General provisions**

#### *Article 48*

### **Scope of Copernicus**

- 1. Copernicus shall be implemented building on prior Union investments and, where appropriate, drawing on the national or regional capacities of Member States and taking into account the capacities of commercial suppliers of comparable data and information and the need to foster competition and market development.
- 2. Copernicus shall deliver data and information pursuing a full, free and open data policy.
- 3. Copernicus shall comprise four components, namely:
  - (a) data acquisition component which shall include:
    - the development and operations of the Copernicus Sentinels;
    - access to third party-data;
    - access to in situ and other ancillary data;
  - (b) data and information processing component, which shall include activities for the generation of value-added information to support environmental monitoring, reporting and compliance assurance, civil protection and security services (Copernicus Services);
  - (c) data access and distribution component, which shall include infrastructure and services to ensure the discovery, viewing, access to, distribution and exploitation of Copernicus data and Copernicus information;

- (d) user uptake and market development component in accordance with Article 29(5), which shall include relevant activities, resources and services to promote Copernicus, its data and services at all levels to maximise socio-economic benefits which are referred to in Article 4(1).
4. Copernicus shall promote the international coordination of observation systems and related exchanges of data in order to strengthen its global dimension and complementarity taking account of existing international agreements and coordination processes.

## CHAPTER II

### Eligible actions

#### *Article 49*

#### **Data acquisition**

Eligible actions under Copernicus shall cover:

- (a) actions to provide continuity of existing Sentinel missions and to develop, launch, maintain and operate further Sentinels expanding the observation scope, giving priority to: observation capacities for monitoring anthropogenic CO<sub>2</sub> and other greenhouse gas emissions, allowing for polar coverage and enabling innovative environmental applications in agriculture, forest and water management domains;
- (b) actions to provide access to third-party data necessary to generate Copernicus services or for use by the Union's institutions, agencies and decentralised services;
- (c) actions to provide and coordinate access to in situ and other ancillary data necessary for the generation, calibration and validation of Copernicus data and Copernicus information.

#### *Article 50*

#### **Copernicus Services**

Copernicus shall include actions in support of the following services:

- (a) environmental monitoring, reporting and compliance assurance services covering:
- atmosphere monitoring to provide information on air quality and chemical composition of the atmosphere;
  - marine environment monitoring to provide information on the state and dynamics of marine and coastal ecosystems and their resources;
  - land monitoring and agriculture to provide information on land cover, land use and land use change, urban areas, inland water quantity and quality, forests, agriculture and other natural resources, biodiversity and cryosphere;
  - climate monitoring change to provide information on anthropogenic CO<sub>2</sub> and other greenhouse gas emissions, essential climate variables, climate reanalyses, seasonal forecasts, climate projections and attribution, as well as indicators at relevant temporal and spatial scales;
- (b) emergency management service to provide information in support of public authorities concerned with civil protection established in the Union, supporting civil protection and emergency response operations (improving early warning activities and crisis response capacities), and prevention and preparedness actions (risk and recovery analyses) in relation to different types of disasters;

- (c) security service to support surveillance of the Union's external borders, maritime surveillance, as well as Union external action responding to security challenges facing the Union, and Common Foreign and Security Policy objectives and actions.

#### *Article 51*

##### **Access to and distribution of Copernicus data and information**

1. Copernicus shall include actions to provide access to all Copernicus data and Copernicus information and, where appropriate, provide additional infrastructure and services to foster the distribution, access and use of those data and information.
2. Where Copernicus data or Copernicus information are security sensitive, the Commission may entrust the procurement, the supervision of the acquisition, the access to and the distribution of those data and information to one or more fiduciary entities. Such entities shall set up and maintain a registry of accredited users and grant access to the restricted data through a segregated workflow.

#### CHAPTER III

##### **Copernicus data policy**

#### *Article 52*

##### **Copernicus data and Copernicus information policy**

1. Copernicus data and Copernicus information shall be provided to users under the following free, full and open data policy:
  - (a) Copernicus users may, on a free and worldwide basis, reproduce, distribute, communicate to the public, adapt, modify all Copernicus data and Copernicus information and combine them with other data and information;
  - (b) the free, full and open data policy shall include the following limitations:
    - the formats, timeliness and dissemination characteristics of Copernicus data and Copernicus information shall be pre-defined;
    - the licensing conditions of third-party data and third-party information used in the production of Copernicus Services information shall be abided by where applicable;
    - the security limitations resulting from the general security requirements referred to in Article 34(1);
    - protection against the risk of disruption of the system producing or making available Copernicus data and Copernicus information shall be ensured;
    - the protection of reliable access to Copernicus data and Copernicus information for European users shall be ensured.
2. The Commission shall adopt delegated acts in accordance with Article 105 concerning the specific provisions to supplement paragraph 1 as regards the specifications and conditions and procedures for the access to and use of Copernicus data and Copernicus information.
3. The Commission shall issue licenses and notices for access and use of Copernicus data and Copernicus information, including attribution clauses, in compliance with the Copernicus data policy as set out in this Regulation and applicable delegated acts under paragraph 2.

#### TITLE VIII

## **OTHER COMPONENTS OF THE PROGRAMME**

### **CHAPTER I**

#### **SSA**

#### *SECTION I*

#### **SST**

#### *Article 53*

#### **Scope of SST**

The SST component shall support the following activities:

- (a) the establishment, development and operation of a network of ground-based and/or space-based sensors of the Member States, including sensors developed through the European Space Agency and nationally operated Union sensors, to survey and track objects and to produce a European catalogue of space objects adapted to the needs of the users referred to in Article 55;
- (b) the processing and analysis of SST data at national level in order to produce SST information and services referred to in Article 54;
- (c) the supply of the SST services referred to in Article 54 to the entities mentioned in Article 55;
- (d) technical and administrative support to ensure the transition between the EU Space Programme and the SST Support Framework established by Decision No 541/2014/EU.

#### *Article 54*

#### **SST services**

1. SST services shall comprise:
  - (a) the risk assessment of collision between spacecraft or between spacecraft and space debris and the potential generation of collision avoidance alerts during the phases of launch, early orbit, orbit raising, in-orbit operations and disposal phases of spacecraft missions;
  - (b) the detection and characterisation of in-orbit fragmentations, break-ups or collisions;
  - (c) the risk assessment of the uncontrolled re-entry of space objects and space debris into the Earth's atmosphere and the generation of related information, including the estimation of the timeframe and likely location of possible impact;
  - (d) the prevention of the proliferation of space debris.
2. SST services shall be free of charge and be available at any time without interruption.

#### *Article 55*

#### **SST Users**

1. SST core users shall comprise all the Member States, the EEAS, the Commission, the Council, public and private spacecraft owners and operators and public authorities concerned with civil protection established in the Union.

2. Other public and private entities (non-core users) established in the Union may have access to one of the services mentioned in points (b) to (d) of Article 54(1) provided that they comply with the following criteria:

- (a) the data is used for non-commercial purposes;
- (b) an appropriate security level of the data received is ensured.

The Commission may adopt, by means of implementing acts, detailed provisions concerning those criteria and relevant procedures. Those provisions shall be adopted in accordance with the examination procedure referred to in Article 107(3).

#### *Article 56*

#### **Participation of Member States**

1. Member States wishing to participate in the delivery of SST services referred to in Article 54 shall submit a joint proposal to the Commission demonstrating compliance with the following criteria:

- (a) ownership of, or access to, either adequate SST sensors available for EU SST and human resources to operate them, or adequate operational analysis and data processing capabilities specifically designed for SST and available for EU SST;
- (b) initial security risk assessment of each SST asset performed and validated by the relevant Member State;
- (c) an action plan taking into account the coordination plan adopted under Article 6 of Decision 541/2014/EU, for the implementation of the activities set out in Article 53 of this Regulation;
- (d) the distribution of the different activities among the Expert Teams as designated pursuant to Article 57;
- (e) the rules on the sharing of data necessary for achieving the objectives referred to in Article 4.

As concerns criteria set out in points (a) and (b), each Member State wishing to participate in the delivery of SST services shall demonstrate compliance with these criteria separately.

- 2. The criteria referred to in points (a) and (b) of paragraph 1 shall be deemed to be fulfilled by the participating Member States whose designated national entities are members of the Consortium established in accordance with Article 7 of Decision No 541/2014/EU as on the date of entry into force of this Regulation.
- 3. Where no joint proposal has been submitted in accordance with paragraph 1 or where the Commission considers that a joint proposal thus submitted does not comply with the criteria referred to in paragraph 1, at least three Member States found to fulfil the criteria laid down in paragraph 1 may submit jointly offers to the Commission concerning a specific orbit regime.
- 4. The Commission may adopt, by means of implementing acts, the detailed provisions concerning the procedures and elements referred to in paragraphs 1 to 3. Those implementing measures shall be adopted in accordance with the examination procedure referred to in Article 107(3).

#### *Article 57*

#### **Organisational framework of Member States' participation**

1. All Member States which have submitted a proposal that has been found compliant by the Commission in accordance with Article 56(1) or which have been selected by the Commission pursuant to the procedure referred to in Article 56(3) shall designate a Constituting National Entity established on their territory to represent them.
2. The Constituting National Entities designated pursuant to paragraph 1 shall conclude an agreement creating an SST partnership and laying down the rules and mechanisms for their cooperation in implementing the activities referred to in Article 53. In particular, that agreement shall include the elements mentioned in points (c) to (e) of Article 56(1) and the establishment of a risk management structure to ensure the implementation of the provisions on the use and secure exchange of SST data and SST information.
3. The Constituting National Entities shall develop Union SST services of high quality in accordance with a multiannual plan, relevant key performance indicators and users' requirements, on the basis of the activities of the Expert Teams referred to in paragraph 6. The Commission may adopt, by means of implementing acts, the multiannual plan and the key performance indicators in accordance with the examination procedure referred to in Article 107(3).
4. The Constituting National Entities shall network existing and possible future sensors to operate them in a coordinated and optimised way with a view to establishing and maintaining an up-to-date common European catalogue.
5. The participating Member States shall perform security accreditation on the basis of the general security requirements referred to in Article 34(1).
6. Expert Teams shall be designated by the SST participating Member States to be in charge of specific issues related to the different SST activities. The Expert Teams shall be permanent, managed and staffed by the Constituting National Entities of the Member States which set them up and may include experts from every Constituting National Entity.
7. Constituting National Entities and Expert Teams shall ensure the protection of SST data, SST information and SST services.
8. The Commission shall adopt, by implementing acts, detailed rules on the functioning of the organisational framework of the participation of Member States in SST. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

#### *Article 58*

#### **SST Front desk**

1. The Commission shall select on the basis of the best expertise in security issues the SST Front Desk. That front desk shall:
  - (a) provide the necessary secure interfaces to centralise, store and make available SST information to SST users, ensuring its proper handling and traceability;
  - (b) provide direct reporting on the performance of the SST services;
  - (c) gather feedback to ensure the required alignment of services with user expectations;
  - (d) support, promote and encourage the use of the services.
2. The Constituting National Entities shall conclude the necessary implementing arrangements with the SST Front Desk.

#### *SECTION II*

## **Space Weather and NEO**

### *Article 59*

#### **Space Weather activities**

1. The space weather function may support the following activities:
  - (a) the assessment and identification of the needs of the users in the sectors identified in paragraph 2(b) with the aim of setting out the space weather services to be provided;
  - (b) the provision of space weather services to the space weather users, according to the identified users' needs and technical requirements.
2. Space weather services shall be available at any time without interruption and may be selected according to the following rules:
  - (a) the Commission shall prioritise the space weather services to be delivered at Union level according to the needs of users, the technological readiness of the services and the result of a risk assessment;
  - (b) the space weather services may contribute to the protection of the following sectors: spacecraft, aviation, GNSSs, electric power grids and communications.
3. The selection of entities to provide space weather services shall be performed through a call for tenders.

### *Article 60*

#### **NEO activities**

1. The NEO function may support the following activities:
  - (a) the mapping of Member States' capacities for detecting and monitoring NEOs;
  - (b) the promotion of the networking of Member States' facilities and research centres;
  - (c) the development of the service referred to in paragraph 2.
2. The Commission may coordinate the actions of the Union and national public authorities concerned with civil protection in the event a NEO is found to be approaching Earth.

## **CHAPTER II**

### **GOVSATCOM**

#### *Article 61*

#### **Scope of GOVSATCOM**

Under the GOVSATCOM component satellite communication capacities and services shall be combined into a common Union pool of satellite communication capacities and services. This component comprises:

- (a) the development, construction, and operations of the ground segment infrastructure;
- (b) the procurement of satellite communication capacity, services, and user equipment necessary for the provision of GOVSATCOM services;
- (c) measures necessary to further interoperability and standardisation of GOVSATCOM user equipment.

## Article 62

### Capacities and services provided under GOVSATCOM

1. The provision of GOVSATCOM capacities and services, free of charge for GOVSATCOM users, shall be ensured as laid down in the service portfolio referred to in paragraph 3, in accordance with the operational requirements referred to in paragraph 2, GOVSATCOM specific security requirements referred to in Article 34(1) and within the limits of the sharing and prioritisation rules referred to in Article 65.
2. The Commission shall adopt, by means of implementing acts, the operational requirements for services provided under GOVSATCOM, in the form of technical specifications for use-cases related to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those operational requirements shall be based on the detailed analysis of the requirements of users, and taking into account requirements stemming from existing user equipment and networks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).
3. The Commission shall adopt, by means of implementing acts, the service portfolio for services provided under GOVSATCOM, in the form of a list of categories of satellite communication capacities and services and their attributes, including geographic coverage, frequency, bandwidth, user equipment, and security features. Those measures shall be based on the operational and security requirements referred to in paragraph 1 and shall prioritise services provided to users at Union level. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).
4. GOVSATCOM users shall have access to the capacities and services listed in the service portfolio through the GOVSATCOM Hubs referred to in Article 66.

## Article 63

### Providers of satellite communication capacities and services

Satellite communication capacities and services under this component may be provided by the following entities:

- (a) GOVSATCOM participants, and
- (b) legal persons duly accredited to provide satellite capacities or services in accordance with the security accreditation procedure in Article 36, based on the specific security requirements for the GOVSATCOM component referred to in Article 34 (1).

## Article 64

### GOVSATCOM use

1. The following entities may be GOVSATCOM users provided that they are entrusted with tasks relating to the supervision and management of security-critical missions, operations and infrastructures:
  - (a) Union or Member State public authority or a body charged with the exercise of such public authority,
  - (b) a natural or legal person.
2. GOVSATCOM users shall be duly authorised by a participant referred to in Article 67 to use GOVSATCOM capacities and services.

*Article 65*

**Sharing and prioritisation**

1. Pooled satellite communication capacities, services and user equipment shall be shared and prioritised between GOVSATCOM participants on the basis of an analysis of security risks by the users at Union and Member State level. This sharing and prioritisation shall prioritise users at Union level.
2. The Commission shall adopt, by means of implementing acts, the detailed rules on the sharing and prioritisation of capacities, services, and user equipment, taking into account expected demand for the different use-cases and the analysis of security risks for those use-cases. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).
3. The sharing and prioritisation of satellite communication capacities and services between GOVSATCOM users which are authorised by the same GOVSATCOM participant shall be determined and implemented by that participant.

*Article 66*

**Ground segment infrastructure and operation**

1. The ground segment shall include infrastructure necessary to enable the provision of services to users in accordance with Article 65, particularly the GOVSATCOM Hubs which shall be procured under this component to connect GOVSATCOM users with providers of satellite communication capacities and services.
2. The Commission shall determine, by means of implementing acts, the location of the ground segment infrastructure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

*Article 67*

**GOVSATCOM participants and competent authorities**

1. Member States, the Council, the Commission and the EEAS shall be GOVSATCOM participants insofar as they authorise GOVSATCOM users, or provide satellite communication capacities or ground segment sites or part of the ground segment facilities.
2. Union agencies may become GOVSATCOM participants if authorisations have been issued by the Union institution that supervises them.
3. Each participant shall designate one competent GOVSATCOM authority.
4. A competent GOVSATCOM authority shall ensure that
  - (a) the use of services is in compliance with the applicable security requirements;
  - (b) the access rights for GOVSATCOM users are determined and managed;
  - (c) user equipment and associated electronic communication connections and information are used and managed in accordance with applicable security requirements;
  - (d) a central point of contact is established to assist as necessary in the reporting of security risks and threats, in particular the detection of potentially harmful electromagnetic interference affecting the services under this component.

*Article 68*

**Monitoring of supply and demand for GOVSATCOM**

The Commission shall monitor the evolution of supply and demand for GOVSATCOM capacities and services continuously, taking into account new risks and threats, as well as new technology developments, in order to optimise the balance between that supply and demand for GOVSATCOM services.

*Article 69*

**Review clause GOVSATCOM**

Before the end of 2024, the Commission shall evaluate the implementation of the GOVSATCOM component, notably as regards the evolution of the user needs in relation to the satellite communication capacity. The evaluation shall in particular examine the need for additional space infrastructure. The evaluation shall be accompanied, if necessary, by an appropriate proposal for the development of additional space infrastructure under the GOVSATCOM component.

TITLE IX

**THE EUROPEAN UNION AGENCY FOR THE SPACE PROGRAMME**

CHAPTER I

**General provisions relating to the Agency**

*Article 70*

**Legal status of the Agency**

1. The Agency shall be a body of the Union. It shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under the law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.
3. The Agency shall be represented by its Executive Director.

*Article 71*

**Seat of the Agency**

The seat of the Agency shall be located in Prague (Czech Republic).

CHAPTER II

**Organisation of the Agency**

*Article 72*

**Administrative and management structure**

1. The Agency's administrative and management structure shall comprise:
  - (a) the Administrative Board;
  - (b) the Executive Director;
  - (c) the Security Accreditation Board.

2. The Administrative Board, the Executive Director, the Security Accreditation Board and the latter's Chairperson shall cooperate to ensure the operation of the Agency and coordination in accordance with the procedures determined by the Agency's internal rules, such as the rules of procedure of the Administrative Board, the rules of procedure of the Security Accreditation Board, the financial rules applicable to the Agency, the implementing rules for the status of staff and the rules governing access to documents.

### *Article 73*

#### **Administrative Board**

1. The Administrative Board shall be composed of one representative from each Member State, and four representatives of the Commission, all with voting rights. The Administrative Board shall also include one member designated by the European Parliament, with no voting rights.
2. The Chairperson or the Deputy Chairperson of the Security Accreditation Board, a representative of the Council, a representative of the High Representative and a representative of the European Space Agency shall be invited to attend the meetings of the Administrative Board as observers, under the conditions laid down in the rules of procedure of the Administrative Board.
3. Each member of the Administrative Board shall have an alternate. The alternate shall represent the member in his/her absence.
4. The members and alternate members of the Administrative Board shall be appointed in light of their knowledge in the field of the Agency's core tasks, taking into account relevant managerial, administrative and budgetary skills. The European Parliament, the Commission and the Member States shall endeavour to limit changes of their representatives on the Administrative Board, in order to ensure continuity of the Board's activities. All parties shall aim to achieve a balanced representation between men and women on the Administrative Board.
5. The term of office of the members of the Administrative Board and their alternate shall be four years, renewable once.
6. Where appropriate, the participation of representatives of third countries or international organisations and the conditions thereof shall be established in the agreements referred to in Article 98 and shall comply with the rules of procedure of the Administrative Board.

### *Article 74*

#### **Chairperson of the Administrative Board**

1. The Administrative Board shall elect a Chairperson and a Deputy Chairperson from among its members with voting rights. The Deputy Chairperson shall automatically replace the Chairperson if he or she is prevented from attending to his or her duties.
2. The term of office of the Chairperson and of the Deputy Chairperson shall be two years, renewable once. It shall be ended in case that person ceases to be a member of the Administrative Board.
3. The Administrative Board shall have the power to dismiss the Chairperson, the Deputy Chairperson or both of them.

### *Article 75*

#### **Meetings of the Administrative Board**

1. Meetings of the Administrative Board shall be convened by its Chairperson.
2. The Executive Director shall take part in the deliberations, unless the Chairperson decides otherwise. He/she shall not have the right to vote.
3. The Administrative Board shall hold an ordinary meeting twice a year. In addition, it shall meet on the initiative of its Chairperson or at the request of at least one third of its members.
4. The Administrative Board may invite any person whose opinion may be of interest to attend its meetings as an observer. The members of the Administrative Board may, subject to its rules of procedure, be assisted by advisers or experts.
5. [For any component of the Programme which entails the use of sensitive national infrastructure, only the representatives of Member States which possess such infrastructure and the representative of the Commission may attend the meetings and deliberations of the Administrative Board and take part in voting. Where the Chairperson of the Administrative Board does not represent one of the Member States which possess such infrastructure, he/she shall be replaced by the representatives of a Member States which possesses such infrastructure.]
6. The Agency shall provide the secretariat of the Administrative Board.

#### *Article 76*

#### **Voting rules of the Administrative Board**

1. Unless this Regulation provides otherwise, the Administrative Board shall take its decisions by a majority of its voting members.  
A majority of two thirds of all voting members shall be required for the election and dismissal of the Chairperson and Deputy Chairperson of the Administrative Board and for the adoption of the budget and work programmes.
2. Each representative of the Member States and of the Commission shall have one vote. In the absence of a member with the right to vote, his or her alternate shall be entitled to exercise his or her right to vote. The Executive Director shall not take part in the voting. Decisions based on points (a), (b), (f), (j) and (k) of Article 77(2) or on Article 77(5), except for matters covered by Chapter II of Title V, shall only be adopted with a favourable vote of the representatives of the Commission.
3. The rules of procedure of the Administrative Board shall establish more detailed voting arrangements, in particular the conditions for a member to act on behalf of another member.

#### *Article 77*

#### **Tasks of the Administrative Board**

1. The Administrative Board shall ensure that the Agency carries out the work entrusted to it, under the conditions set out in this Regulation, and shall take any necessary decision to this end, without prejudice to the competences entrusted to the Security Accreditation Board for the activities under Chapter II of Title V.
2. The Administrative Board shall also:
  - (a) adopt, by 15 November each year, the Agency's work programme for the following year after incorporating, without any change, the section drafted by the Security Accreditation Board, in accordance with point (b) of Article 80, and after having received the Commission's opinion;

- (b) perform the budgetary functions laid down in Article 84(5), (6), (10) and (11);
  - (c) oversee the operation of the Galileo Security Monitoring Centre as referred to in Article 34(3), point (b);
  - (d) adopt arrangements to implement Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>32</sup>, in accordance with Article 94;
  - (e) approve the arrangements referred to in Article 98, after consulting the Security Accreditation Board, on the provisions of the arrangements concerning security accreditation;
  - (f) adopt the technical procedures necessary to perform its tasks;
  - (g) adopt the annual report on the activities and prospects of the Agency, having incorporated, without any change, the section drafted by the Security Accreditation Board in accordance with point (c) of Article 80 and forward it, by 1 July, to the European Parliament, the Council, the Commission and the Court of Auditors;
  - (h) ensure adequate follow-up to the findings and recommendations arising from the evaluations and audits referred to in Article 102, as well as those arising from investigations conducted by the European Anti-Fraud Office (OLAF) and all internal or external audit reports, and forward to the budgetary authority all information relevant to the outcome of the evaluation procedures;
  - (i) be consulted by the Executive Director on the financial framework partnership agreements referred to in Article 31(2) before they are signed;
  - (j) adopt the security rules of the Agency as referred to in Article 96;
  - (k) approve, on the basis of a proposal from the Executive Director, an anti-fraud strategy;
  - (l) approve, where necessary and on the basis of proposals from the Executive Director, the organisational structures referred to in point (n) of Article 77(1);
  - (m) establish an advisory body on security, composed of representatives from the Member States, selected from among recognised experts in the field, and with the appropriate involvement of the Commission and the High Representative, to provide technical expertise to the Agency on security, in particular with regard to cyber threats;
  - (n) appoint an Accounting Officer, who may be the Commission's Accounting Officer, who shall be subject to the Staff Regulations and the Conditions of Employment of other servants and who shall be totally independent in the performance of his/her duties;
  - (o) adopt and publish its rules of procedure.
3. With regard to the Agency's staff, the Administrative Board shall exercise the powers conferred by the Staff Regulations of Officials of the European Union ('Staff Regulations') on the appointing authority and by the Conditions of Employment of Other Servants on the authority empowered to conclude employment contracts (the 'powers of the appointing authority').

The Administrative Board shall adopt, in accordance with the procedure provided for in Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations

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<sup>32</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant powers of the appointing authority to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director shall report back to the Administrative Board on the exercise of those delegated powers. The Executive Director shall be authorised to subdelegate those powers.

In application of the second subparagraph of this paragraph, where exceptional circumstances so require, the Administrative Board may, by way of a decision, temporarily suspend the delegation of the powers of the appointing authority to the Executive Director and those subdelegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

By way of derogation from the second subparagraph, the Administrative Board shall be required to delegate to the Chairperson of the Security Accreditation Board the powers referred to in the first subparagraph with regard to the recruitment, assessment and reclassification of staff involved in the activities covered by Chapter II of Title V and the disciplinary measures to be taken with regard to such staff.

The Administrative Board shall adopt the implementing measures of the Staff Regulations and the Conditions of Employment of Other Servants in accordance with the procedure laid down in Article 110 of the Staff Regulations. It shall first consult the Security Accreditation Board and duly take into account its observations with regard to the recruitment, assessment and reclassification of the staff involved in the activities under Chapter II of Title V and the relevant disciplinary measures to be taken.

It shall also adopt a decision laying down rules on the secondment of national experts to the Agency. Before adopting that decision, the Administrative Board shall consult the Security Accreditation Board with regard to the secondment of national experts involved in the security accreditation activities referred to in Chapter II of Title V and shall duly take account of its observations.

4. The Administrative Board shall appoint the Executive Director and may extend or end their term of office pursuant to Article 89.
5. The Administrative Board shall exercise disciplinary authority over the Executive Director in relation to his or her performance, in particular as regards security matters falling within the Agency's competence, except in respect of activities undertaken in accordance with Chapter II of Title V.

#### *Article 78*

#### **Executive Director**

The Agency shall be managed by its Executive Director. The Executive Director shall be accountable to the Administrative Board.

#### *Article 79*

#### **Tasks of the Executive Director**

1. The Executive Director shall perform the following tasks:
  - (a) represent the Agency and sign the agreement referred to in Article 31(2);
  - (b) prepare the work of the Administrative Board and participate, without having the right to vote, in the work of the Administrative Board, subject to the second subparagraph of Article 76;

- (c) implement the decisions of the Administrative Board;
- (d) prepare the multiannual and annual work programmes of the Agency and submit them to the Administrative Board for approval, with the exception of the parts prepared and adopted by the Security Accreditation Board in accordance with points (a) and (b) of Article 80;
- (e) implement the multiannual and annual work programmes, with the exception of the parts implemented by the Chairperson of the Security Accreditation Board;
- (f) prepare a progress report on the implementation of the annual work programme and, where relevant, of the multiannual work programme for each meeting of the Administrative Board, incorporating, without any change, the section prepared by the Chairperson of the Security Accreditation Board;
- (g) prepare the annual report on the activities and prospects of the Agency with the exception of the section prepared and approved by the Security Accreditation Board in accordance with point (c) of Article 80 concerning the activities covered by Title V, and submit it to the Administrative Board for approval;
- (h) handle the day-to-day administration of the Agency and take all necessary measures, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with this Regulation;
- (i) draw up a draft statement of estimates of revenue and expenditure for the Agency in accordance with Article 84 and implement the budget in accordance with Article 85;
- (j) ensure that the Agency, as the operator of the Galileo Security Monitoring Centre is able to respond to instructions provided under Decision 2014/496/CFSP and to fulfil its role as referred to in Article 6 of Decision No 1104/2011/EU;
- (k) ensure the circulation of all relevant information, in particular as regards security, within the agency structure referred to in Article 72(1);
- (l) determine, in close cooperation with the Chairperson of the Security Accreditation Board for matters relating to security accreditation activities covered by Chapter II of Title V, the organisational structures of the Agency and submit them to the Administrative Board for approval. Those structures shall reflect the specific characteristics of the various components of the Programme;
- (m) exercise, with regard to the Agency's staff, the powers referred to in the first subparagraph of Article 37(3), to the extent that those powers have been delegated to him or her in accordance with the second subparagraph thereof;
- (n) ensure that secretarial services and all the resources necessary for their proper functioning are provided to the Security Accreditation Board, the bodies referred to in Article 37(3) and the Chairperson of the Security Accreditation Board;
- (o) prepare an action plan for ensuring the follow-up of the findings and recommendations of the evaluations referred to in Article 102, with the exception of the section of the action plan concerning the activities covered by Chapter II of Title V, and submit, after having incorporated, without any change, the section drafted by the Security Accreditation Board, a twice-yearly progress report to the Commission, which shall also be submitted to the Administrative Board for information;
- (p) take the following measures to protect the financial interests of the Union:
  - i) preventive measures against fraud, corruption or any other illegal activity and making use of effective supervisory measures;

- ii) recovering sums unduly paid where irregularities are detected and, where appropriate, applying effective, proportionate and dissuasive administrative and financial penalties;
  - (q) draw up an anti-fraud strategy for the Agency that is proportionate to the risk of fraud, having regard to a cost-benefit analysis of the measures to be implemented and taking into account findings and recommendations arising from OLAF investigations and submit it to the Administrative Board for approval;
  - (r) provide reports to the European Parliament on the performance of his/her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his/her duties.
2. The Executive Director shall decide whether it is necessary to locate one or more staff in one or more Member States for the purpose of carrying out the Agency's tasks in an efficient and effective manner. Before deciding to establish a local office the Executive Director shall obtain the prior approval of the Commission, the Administrative Board and the Member State(s) concerned. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency. A headquarters agreement with the Member State(s) concerned may be required.

#### *Article 80*

#### **Management tasks of the Security Accreditation Board**

Apart from the tasks referred to in Article 37, the Security Accreditation Board shall, as part of the management of the Agency:

- (a) prepare and approve that part of the multiannual work programme concerning the operational activities covered by Chapter II of Title V and the financial and human resources needed to accomplish those activities, and submit it to the Administrative Board in good time for it to be incorporated into the multiannual work programme;
- (b) prepare and approve that part of the annual work programme concerning the operational activities covered by Chapter II of Title V and the financial and human resources needed to accomplish those activities, and submit it to the Administrative Board in good time for it to be incorporated into the annual work programme;
- (c) prepare and approve that part of the annual report concerning the Agency's activities and prospects covered by Chapter II of Title V and the financial and human resources needed to accomplish those activities and prospects, and submit it to the Administrative Board in good time for it to be incorporated into the annual report.

#### *Article 81*

#### **The Chairperson of the Security Accreditation Board**

- 1. The Security Accreditation Board shall elect a Chairperson and a Deputy Chairperson from among its members by a two-thirds majority of all members with the right to vote. Where a two-thirds majority has not been achieved following two meetings of the Security Accreditation Board, a simple majority shall be required.
- 2. The Deputy Chairperson shall automatically replace the Chairperson if the latter is unable to attend to his or her duties.

3. The Security Accreditation Board shall have the power to dismiss the Chairperson, the Deputy Chairperson or both of them. It shall adopt the decision to dismiss by a two-thirds majority.
4. The term of office of the Chairperson and of the Deputy Chairperson of the Security Accreditation Board shall be two years, renewable once. Each term of office shall end when that person ceases to be a member of the Security Accreditation Board.

#### *Article 82*

#### **Organisational aspects of the Security Accreditation Board**

1. The Security Accreditation Board shall have access to all the human and material resources required to perform its tasks independently. It shall have access to any information useful for the performance of its tasks in the possession of the other bodies of the Agency, without prejudice to the principles of autonomy and independence referred to in Article 36(i).
2. The Security Accreditation Board and the Agency staff under its supervision shall perform their work in a manner ensuring autonomy and independence in relation to the other activities of the Agency, in particular operational activities associated with the exploitation of the systems, in accordance with the objectives of the Programme's various components. No member of the Agency's staff under the supervision of the Security Accreditation Board may at the same time be assigned to other tasks within the Agency.

To that end, an effective organisational segregation shall be established within the Agency between the staff involved in activities covered by Chapter II of Title V and the other staff of the Agency. The Security Accreditation Board shall immediately inform the Executive Director, the Administrative Board and the Commission of any circumstances that could hamper its autonomy or independence. In the event that no remedy is found within the Agency, the Commission shall examine the situation, in consultation with the relevant parties. On the basis of the outcome of that examination, the Commission shall take appropriate mitigation measures to be implemented by the Agency, and shall inform the European Parliament and the Council thereof.

3. The Security Accreditation Board shall set up special subordinate bodies, acting on its instructions, to deal with specific issues. In particular, while ensuring necessary continuity of work, it shall set up a panel to conduct security analysis reviews and tests and produce the relevant risk reports in order to assist it in preparing its decisions. The Security Accreditation Board may set up and disband expert groups to contribute to the work of the panel.

#### *Article 83*

#### **Tasks of the Chairperson of the Security Accreditation Board**

1. The Chairperson of the Security Accreditation Board shall ensure that the Board carries out its security accreditation activities totally independently and shall perform the following tasks:
  - (a) manage security accreditation activities under the supervision of the Security Accreditation Board;
  - (b) implement the part of the Agency's multiannual and annual work programmes covered by Chapter II of Title V under the supervision of the Security Accreditation Board;
  - (c) cooperate with the Executive Director to help to draw up the draft establishment plan referred to in Article 84(4) and the organisational structures of the Agency;

- (d) prepare the section of the progress report concerning the operational activities covered by Chapter II of Title V, and submit it to the Security Accreditation Board and the Executive Director in good time for it to be incorporated into the progress report;
  - (e) prepare the section of the annual report and of the action plan, concerning the operational activities covered by Chapter II of Title V, and submit it to the Executive Director in good time;
  - (f) represent the Agency for the activities and decisions covered by Chapter II of Title V;
  - (g) exercise, with regard to the Agency's staff involved in the activities covered by Chapter II of Title V, the powers referred to in the first subparagraph of Article 77(3), delegated to him or her in accordance with the fourth subparagraph of Article 77(3).
2. For activities covered by Chapter II of Title V, the European Parliament and the Council may call upon the Chairperson of the Security Accreditation Board for an exchange of views before those institutions on the work and prospects of the Agency, including with regard to the multiannual and annual work programmes.

### CHAPTER III

#### **Financial provisions relating to the Agency**

##### *Article 84*

#### **The Agency's budget**

1. Without prejudice to other resources and dues, in particular those referred to in Article 36, the revenue of the Agency shall include a Union contribution entered in Union budget in order to ensure a balance between revenue and expenditure.
2. The expenditure of the Agency shall cover staff, administrative and infrastructure expenditure, operating costs and expenditure associated with the functioning of the Security Accreditation Board, including the bodies referred to in Article 37(3), and the contracts and agreements concluded by the Agency in order to accomplish the tasks entrusted to it.
3. Revenue and expenditure shall be in balance.
4. The Executive Director shall, in close collaboration with the Chairperson of the Security Accreditation Board for activities covered by Chapter II of Title V, draw up a draft statement of estimates of revenue and expenditure for the Agency for the next financial year, making clear the distinction between those elements of the draft statement of estimates, which relate to security accreditation activities, and those relating to the Agency's other activities. The Chairperson of the Security Accreditation Board may write a statement on that draft, and the Executive Director shall forward both the draft statement of estimates and the statement to the Administrative Board and the Security Accreditation Board, together with a draft establishment plan.
5. Each year, the Administrative Board, based on the draft statement of estimates of revenue and expenditure and in close cooperation with the Security Accreditation Board for activities covered by Chapter II of Title V, shall draw up the statement of estimates of revenue and expenditure for the Agency for the next financial year.
6. The Administrative Board shall, by 31 January, forward a draft single programming document including inter alia a statement of estimates, a draft establishment plan, a provisional annual work programme, to the Commission and to the third countries or international organisations with which the Agency has entered into arrangements in accordance with Article 98.

7. The Commission shall forward the statement of estimates of revenue and expenditure to the European Parliament and to the Council (the ‘budgetary authority’) together with the draft general budget of the European Union.
8. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the Treaty on the Functioning of the European Union.
9. The budgetary authority shall authorise the appropriations for the contribution to the Agency and shall adopt the establishment plan for the Agency.
10. The budget shall be adopted by the Administrative Board. It shall become final following final adoption of the general budget of the European Union. Where necessary, it shall be adjusted accordingly.
11. The Administrative Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which will have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.
12. Where an arm of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Administrative Board within a period of six weeks from the date of notification of the project.

#### *Article 85*

#### **Implementation of the Agency’s budget**

1. The Executive Director shall implement the Agency’s budget.
2. Each year, the Executive Director shall communicate to the budgetary authority all the information needed for the exercise of their evaluation duties.

#### *Article 86*

#### **Presentation of the Agency’s accounts and discharge**

The presentation of the Agency's provisional and final accounts and the discharge shall follow the rules and timetable of the Financial Regulation and of the Framework Financial Regulation for the bodies referred to in [Article 70] of the Financial Regulation.

#### *Article 87*

#### **Financial provisions relating to the Agency**

The financial rules applicable to the Agency shall be adopted by the Administrative Board after consulting the Commission. These rules may not depart from the framework financial regulation for the bodies referred to in [Article 70] of the Financial Regulation unless such a departure is specifically required for the Agency’s operation and the Commission has given its prior consent.

### CHAPTER V

#### **The Agency’s human resources**

*Article 88*

**The Agency's staff**

1. The Staff Regulations, the Conditions of Employment of Other Servants and the rules adopted jointly by the institutions of the Union for the purposes of the application of those Staff Regulations and Conditions of Employment of Other Servants shall apply to the staff employed by the Agency.
2. The staff of the Agency shall consist of servants recruited by the Agency as necessary to perform its tasks. They shall have security clearance appropriate to the classification of the information they are handling.
3. The Agency's internal rules, such as the rules of procedure of the Administrative Board, the rules of procedure of the Security Accreditation Board, the financial rules applicable to the Agency, the rules implementing the Staff Regulations and the rules for access to documents, shall ensure the autonomy and independence of staff performing the security accreditation activities vis-à-vis staff performing the other activities of the Agency, pursuant to Article 36(i).

*Article 89*

**Appointment and term of office of the Executive Director**

1. The Executive Director shall be recruited as temporary members of staff of the Agency in accordance with Article 2(a) of the Conditions of Employment of Other Servants.

The Executive Director shall be appointed by the Administrative Board on grounds of merit and documented administrative and managerial skills, as well as relevant competence and experience, from a list of candidates proposed by the Commission, after an open and transparent competition, following the publication of a call for expressions of interest in the Official Journal of the European Union or elsewhere.

The candidate selected by the Administrative Board for the post of Executive Director may be invited at the earliest opportunity to make a statement before the European Parliament and to answer questions from its Members.

The Chairperson of the Administrative Board shall represent the Agency for the purpose of concluding the contracts of the Executive Director.

The Administrative Board shall take its decision to appoint the Executive Director by a two-thirds majority of its members.

2. The term of office of the Executive Director shall be five years. At the end of that term of office, the Commission shall carry out an assessment of the performance of the Executive Director, taking into account the future tasks and challenges facing the Agency.

On the basis of a proposal from the Commission, taking into account the assessment referred to in the first subparagraph, the Administrative Board may extend the term of office of the Executive Director once for a period of up to four years.

Any decision to extend the term of office of the Executive Director shall be adopted by a two-thirds majority of the members of the Administrative Board.

An Executive Director whose term of office has been extended may not thereafter take part in a selection procedure for the same post.

The Administrative Board shall inform the European Parliament of its intention to extend the term of office of the Executive Director. Before the extension, the Executive Director may be

invited to make a statement before the relevant committees of the European Parliament and answer Members' questions.

3. The Administrative Board may dismiss the Executive Director, on the basis of a proposal by the Commission or of one third of its members, by means of a decision adopted by a two-thirds majority of its members.
4. The European Parliament and the Council may call upon the Executive Director for an exchange of views before those institutions on the work and prospects of the Agency, including with regard to the multiannual and annual work programmes. That exchange of views shall not touch upon matters relating to the security accreditation activities covered by Chapter II of Title V.

#### *Article 90*

### **Secondment of national experts to the Agency**

The Agency may employ national experts from Member States, Member State agencies or international organisations. These experts shall have security clearance appropriate to the classification of the information they are handling. The Staff Regulations and the Conditions of Employments of Other Servants shall not apply to such staff.

#### CHAPTER VI

### **Other provisions**

#### *Article 91*

### **Privileges and immunities**

Protocol No 7 on the Privileges and Immunities of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union shall apply to the Agency and its staff.

#### *Article 92*

### **Headquarters agreement and operating conditions**

1. Necessary arrangements concerning the accommodation to be provided for the Agency in the host Member State and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Administrative Board, Agency staff and members of their families shall be laid down in a Headquarters Agreement between the Agency and Member State where the seat is located, concluded after obtaining the approval of the Administrative Board.
2. The Agency's host Member State shall provide the best possible conditions to ensure the smooth and efficient functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections

#### *Article 93*

### **Linguistic arrangements for the Agency**

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community<sup>33</sup> shall apply to the Agency.
2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the Bodies of the European Union.

#### *Article 94*

##### **Policy on access to documents held by the Agency**

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.
2. The Administrative Board shall adopt arrangements for implementing Regulation (EC) No 1049/2001.
3. Decisions taken by the Agency in pursuance of Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or an action before the Court of Justice of the European Union, under Articles 228 and 263 of the Treaty on the Functioning of the European Union respectively.

#### *Article 95*

##### **Fraud prevention by the Agency**

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council, the Agency shall, within six months from the day it becomes operational, accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF)<sup>34</sup> and adopt appropriate provisions applicable to all employees of the Agency using the template set out in the Annex to that Agreement.
2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.
3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 and in Regulation (EU, Euratom) No 883/2013.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

#### *Article 96*

##### **Protection of classified or sensitive non-classified information by the Agency**

The Agency shall, subject to prior consultation of the Commission, adopt its own security rules equivalent to the Commission's security rules for protecting EUCI and sensitive non-classified information, including rules concerning the exchange, processing and storage of such information, in

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<sup>33</sup> OJ L 17, 6.10.1958, p. 385–386.

<sup>34</sup> OJ L 136, 31.5.1999, p. 15.

accordance with Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission<sup>35</sup> and 2015/444<sup>36</sup>.

#### *Article 97*

##### **Liability of the Agency**

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.
3. In the event of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its servants in the performance of their duties.
4. The Court of Justice shall have jurisdiction in disputes over compensation for the damage referred to in paragraph 3.
5. The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment of Other Servants applicable to them.

#### *Article 98*

##### **Cooperation with third countries and international organisations**

1. The Agency shall be open to the participation of third countries that have entered into agreements with the Union to this effect.
2. Under the relevant provisions of the agreements referred to in paragraph 1, arrangements shall be developed specifying, in particular, the nature, extent and manner in which the third countries concerned will participate in the work of the Agency, including provisions relating to participation in the initiatives undertaken by the Agency, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.
3. The Administrative Board shall adopt a strategy on relations with third countries and international organisations concerning matters for which the Agency is competent.
4. The Commission shall ensure that, in its relations with third countries and international organisations, the Agency acts within its mandate and the existing institutional framework by concluding an appropriate working arrangement with the Executive Director

#### *Article 99*

##### **Conflicts of interest**

1. Members of the Administrative Board and of the Security Accreditation Board, the Executive Director, seconded national experts and observers shall make a declaration of commitments and a declaration of interests indicating the absence or existence of any direct or indirect

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<sup>35</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission (OJ L 72, 17.3.2015, p.41).

<sup>36</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p.53).

interests which might be considered prejudicial to their independence. Those declarations shall be accurate and complete. They shall be made in writing upon the entry into service of the persons concerned and shall be renewed annually. They shall be updated whenever necessary, in particular in the event of relevant changes in the personal circumstances of the persons concerned.

2. Before any meeting which they are to attend, members of the Administrative Board and of the Security Accreditation Board, the Executive Director, seconded national experts, observers and external experts participating in ad hoc working groups shall accurately and completely declare the absence or existence of any interest which might be considered prejudicial to their independence in relation to any items on the agenda, and shall abstain from participating in the discussion of and voting upon such points.
3. The Administrative Board and the Security Accreditation Board shall lay down, in their rules of procedure, the practical arrangements for the rules on declaration of interest referred to in paragraphs 1 and 2 and for the prevention and management of conflicts of interest.

## TITLE X

### **PROGRAMMING, MONITORING, EVALUATION AND CONTROL**

#### *Article 100*

##### **Work programme**

The Programme shall be implemented by the work programmes referred to in Article 110 of the Financial Regulation, which may be specific to each component of the Programme. Work programmes shall set out, where applicable, the overall amount reserved for blending operations.

#### *Article 101*

##### **Monitoring and reporting**

1. Indicators to report on progress of the Programme towards achieving the general and specific objectives set out in Article 4 are set in the Annex.
2. The Commission is empowered to adopt delegated acts in accordance with Article 105 concerning amendments to the Annex to review and/or complement the indicators where considered necessary.
3. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where relevant, Member States.
4. For the purposes of paragraph 1, the recipients of Union funds are obliged to provide appropriate information. The data necessary for the verification of the performance shall be collected in an efficient, effective and timely manner.

#### *Article 102*

##### **Evaluation**

1. The Commission shall carry out evaluations of the Programme in a timely manner to feed into the decision-making process.

2. The interim evaluation of the Programme shall be performed once there is sufficient information available about the implementation of the programme, but no later than four years after the start of the programme implementation.
3. At the end of the implementation of the Programme, but no later than four years after the end of the period specified in Article 1, a final evaluation of the Programme shall be carried out by the Commission.
4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.
5. The entities involved in the implementation of this Regulation shall provide to the Commission the data and information necessary for the evaluation referred to in the first paragraph.
6. By 30 June 2024, and every five years thereafter, the Commission shall assess the Agency's performance, in relation to its objectives, mandate, tasks and location, in accordance with Commission guidelines. The evaluation shall, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification. It shall also address the Agency's policy on conflicts of interest and the independence and autonomy of the Security Accreditation Board.

Where the Commission considers that there are no longer grounds for the Agency to continue pursuing its activities, given its objectives, mandate and tasks, it may propose to amend this Regulation accordingly.

The Commission shall submit a report on the evaluation of the Agency and its conclusions to the European Parliament, the Council, the Administrative Board and the Security Accreditation Board of the Agency. The findings of the evaluation shall be made public.

#### *Article 103*

##### **Audits**

Audits on the use of the Union contribution carried out by persons or entities, including others than those mandated by the Union institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

#### *Article 104*

##### **Personal data and privacy protection**

All personal data handled in the context of the tasks and activities provided for in this Regulation, including by the European Union Agency for Space, shall be processed in accordance with the applicable law on personal data protection, in particular Regulation (EC) No 45/2001 of the European Parliament and of the Council and Regulation No 2016/679 of the European Parliament and of the Council. The Administrative Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, including those concerning the appointment of a Data Protection Officer of the Agency. Those measures shall be established after consultation of the European Data Protection Supervisor.

#### TITLE XI

### **DELEGATION AND IMPLEMENTING MEASURES**

## *Article 105*

### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 52 and 101 shall be conferred on the Commission for an indeterminate period until 31 December 2028.
3. The delegation of power referred to in Articles 52 and 101 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 52 and 101 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

## *Article 106*

### **Urgency procedure**

1. A delegated act adopted under the urgency procedure shall enter into force without delay and apply as long as no objection is expressed in accordance with paragraph 2. The notification of the act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. The European Parliament and the Council may object to the delegated act within a period of [six weeks] from the date of notification. In such a case, the act shall cease to be applicable. The institution which objects shall state the reasons for objecting to the delegated act.

## *Article 107*

### **Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

## TITLE XII

### **TRANSITIONAL AND FINAL PROVISIONS**

## *Article 108*

### **Information, communication and publicity**

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 4.
3. The Agency may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 30. Communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Administrative Board.

## *Article 109*

### **Repeals**

1. Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU are repealed with effect from 1 January 2021.
2. References to the repealed acts shall be construed as references to this Regulation.

## *Article 110*

### **Transitional provisions and continuity of services after 2027**

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation (EU) No 377/2014, 1285/2013 and 912/2010 and on the basis of Decision No 541/2014/EU, which shall continue to apply to the actions concerned until their closure. In particular, the Consortium established under Article 7 paragraph 3 of Decision 541/2014/EU shall provide SST Services until 3 months after the signature by the Constituting National Entities of the agreement creating the SST partnership provided in Article 57.
2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under Regulation Nos 377/2014 and 1285/2013 and on the basis of Decision No 541/2014/EU.
3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(4), to enable the management of actions not completed by 31 December 2027.

## *Article 111*

### **Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

[It shall apply from 1<sup>st</sup> January 2021.]

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned (*programme cluster*)
- 1.3. Nature of the proposal/initiative
- 1.4. Grounds for the proposal/initiative
- 1.5. Duration and financial impact
- 1.6. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on appropriations of an administrative nature*
  - 3.2.3. *Third-party contributions*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Union Space Programme

#### 1.2. Policy area(s) concerned (*Programme cluster*)

Heading 1 – Single Market, Innovation & Digital  
04.0201 SPACE PROGRAMME  
04.01ADMIN SPACE PROGRAMME

#### 1.3. The proposal/initiative relates to:

- a new action
- a new action following a pilot project/preparatory action<sup>37</sup>
- the extension of an existing action
- a merger or redirection of one or more actions towards another/a new action

#### 1.4. Grounds for the proposal/initiative

##### 1.4.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The tasks required to the implementation of the Space Programme will require:

- The conclusion of necessary contribution agreements with the different stakeholders in order to ensure the continuity of the services (GNSS and Copernicus) and the development of new activities (SSA and Govsatcom). These contribution agreements will cover all the actions to be taken and monitored in order to ensure the implementation and management of all the actions planned under the Space Programme,
- The necessary staffing in the European Commission in order to manage the programme and monitor effectively the work of the different agencies in particular the Agency
- The necessary staffing and budget of the Agency in order to properly implement the different actions that the agency will be responsible for as per the future regulation.

##### 1.4.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Article 189 TFEU is the main basis for the Union's competence in the area of space policy. It is a shared competence with the Member States.

Developing and operating a Space Programme exceeds the financial and technical capacity of individual Member States and can only be achieved at EU level. There is

<sup>37</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

no viable business case for the commercial sector and no possibility for any individual Member State to build and operate the necessary infrastructures. These types of space investments proposed through this regulation are too risky for the private sector and address areas where return on investment is too long-term (in particular, they are outside the satellite lifetime during which private operators need to redeem their investments).

The current model for Global Navigation Satellite Systems (GNSS) being a free access to the satellite signals, no private investor would invest in a global navigation system, in particular in view of the existence of two major competitors (US GPS and Russian Glonass) which offer free access to data for all users. Galileo and EGNOS are critical European infrastructures that contribute to a safe and secure Europe. They also promote a stronger Europe on the global scene. Given the increasing competition with other satellite navigation systems (all State-owned), it is crucial that the Union develops and sustains efficient systems to remain a partner of choice on the international scene.

The customers for the delivered Copernicus data were initially thought to be the public sector. Data are provided for free to the private and public sector to boost their use and the related added value for the EU economy. Copernicus offers a public sector service, not catered for by the market and for which industry will not deploy infrastructure because the initial investment is too high, too risky, or the user base is too fragmented. The availability of such data, should it be left to the private sector alone, would thus remain uncertain, with the additional consequence of not owning the relevant assets.

The ownership of satellites is in the long-term the best way to implement and maintain the objective of a free, full and open data policy, since the EU will not depend on the will of a private operator to invest in a constellation of satellites to provide data (risk of monopolistic situation of a private data provider).

In short, regarding Copernicus and EGNSS, the timeframe for investment and the uncertainty of sufficient revenues imposes a public financing.

Finally, SST and GOVSATCOM are on their own unaffordable to be financed at national level. There is a further benefit of pooling resources and assets at EU level.

The envisaged EU Space Programme is considered to be proportionate as it is limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better. The strong support from Member States for the Space Strategy shows that Member States consider the elements of the Space Programme as essential.

#### Expected Impact:

##### *Copernicus*

The economic, environmental and societal impact of Copernicus has been analysed in a detailed cost-benefit study. The main outcome is that Copernicus is expected to generate € 67 billion to € 131 billion of benefits to the European society between 2017 and 2035. About 84% of the benefits will be generated in the downstream sector and end user segments (the rest in the upstream and midstream). Ensuring the continuation of the programme after 2021 would generate benefits 10 to 20 times the costs.

Already now downstream and end user benefits from:

Economic benefits, e.g.

- Increased revenue in the Earth observation downstream sector
- Improved agricultural productivity thanks to smart and precision farming

Environmental benefits, e.g.

- CO2 emissions saved thanks to increased renewable energy production
- Hectares of forest saved thanks to improved fire prevention
- Biodiversity preserved thanks to land cover-use monitoring

Societal benefits, e.g.

- Life saved thanks to faster response to natural disasters
- Reduced trafficking thanks to improved border surveillance

In the upstream sector the creation of about 12,000 job-years are expected, which represents an average of 1,700 permanent jobs between 2021 and 2027. This comes on top of the 18,000 job-years supported between 2008 and 2020. In the downstream sector the creation of 27,000 -37,000 job-years are expected. Additional benefits are non-quantifiable (due to lack of data or high uncertainty) but are extremely important for political decisions:

- The value of European autonomy (non-dependence on third country data sources).
- Very long-term benefits (30-50 years) of observing planet Earth on a sustained and regular basis (with growing importance of sustainable development and fight against climate change)
- Cost-savings of having a single EU programme and co-ordinating national initiatives
- Benefits associated with external actions.

#### *Galileo and EGNOS*

According to a detailed survey by the GSA's GNSS Market Monitor, the global market for satellite-based navigation products and services will continue its strong growth, reaching about €250 billion by 2030.

The added value of the European GNSS lies not only in ensuring Europe's excellence with regard to a critical technology but also in securing important macro-economic benefits for the European Union, catalysing the development of new services and products based on GNSS and generating technological spin-offs beneficial for research, development and innovation.

Today more than 100 million user devices enabled for EGNOS and/or Galileo services are in the hands of European citizens, while the shipments of GNSS devices in the European Union is expected to reach the 290 million in 2027, representing a much larger base of users for EGNOS and Galileo.

With transports, telecoms, agriculture and safety being the most affected sectors, it is expected that end users will benefit from:

- a number of new GNSS applications;
- 3,000 jobs in the upstream industry and 50,000 jobs in the downstream industry;

- improved transport services and better traffic management, which will benefit a broader range of areas;
- more efficient and easily accessible emergency services;
- environmental benefits, such as reduction of the CO2 emissions; and
- improved crop management and sustainable food availability.

#### *Secured satellite telecommunication (GOVSATCOM)*

The EU GOVSATCOM will ensure guaranteed access to secure satellite communications. It will thus indirectly contribute to EU security interests. In Member States, it will support for example civil protection forces and national police, bodies with public security functions, border guard, as well as maritime communities. At EU level, it will facilitate the work of EU agencies, such as FRONTEX and EMSA, and enhance the effectiveness of civil protection and humanitarian interventions in the EU and globally.

#### *Space Surveillance and Tracking (SST)*

SST is a major action to ensure the security of the Space Assets. Indeed, following the steep increase of launches, there has been an exponential proliferation of space debris. According to the data provided by the United States more than 500,000 pieces of debris, or “space junk,” are orbiting the Earth and represent a very important threat to the satellites in orbit, likely to create severe damages to any satellites in case of a collision, potentially leading to a full destruction. The proposed SST actions would encompass funding of SST services provision, and networking and upgrades of existing national SST capabilities, with possible support for development of new SST assets. The objective would be to increase the performance and effectiveness of the EU SST and its complementarity with the US. This will allow the EU to better prevent collisions of satellites with debris and thus offer a better protection of EU assets

#### *Space Weather and Near Earth Objects*

Space weather encompassed different types of events (storms of radiation, fluctuating magnetic fields, and swarms of energetic particles), each of them having a different effect on space based assets or ground assets. All EU assets constituting the basis for EU space actions can be potentially impacted by space weather and therefore the development of a framework for space weather is necessary to protect them and ensure efficient and reliable services provided by other space activities. Space weather services are being developed and coordinated by ESA and some Member States. However, those are mostly focused on science and need to be tailored to meet the operational users' needs. Building on and in complementarity to the ESA and national activities, the EU proposes to support the continuous provision of operational space weather services according to the EU users' needs. This will help prevent damage to space and ground infrastructures.

Regarding Near Earth Objects (NEO), the aim is not to develop new operational services but to map and network the existing NEO assets in Europe and support coordination between EU public authorities concerned with civil protection. This will support federating activities at EU level and thereby strengthening its position with key international partners.

### 1.4.3. *Lessons learned from similar experiences in the past*

#### **Lessons learned from previous programmes**

##### *Achievements and lessons learned from GNSS and Copernicus*

##### Achievements and importance of GNSS and Copernicus

Overall, the European Commission has demonstrated its ability to implement the existing GNSS and Copernicus actions with the support of key stakeholders, such as ESA, and a strong European industrial base.

The mid-term evaluations of EGNOS, Galileo and Copernicus as well as an evaluation of the European GNSS Agency (GSA) have emphasised the importance of these investments for the EU and have confirmed their major achievements so far.

##### Lessons learned from GNSS

The European GNSS mid-term review has identified a number of challenges related to i) governance and ii) security governance.

##### i) Governance

The governance set-up has revealed some inefficiency in terms of low reactivity of the decision-making process due to the number of actors involved but also due to a different governance set-up between deployment (delegation agreement between EC and ESA) and exploitation (delegation agreement between EC and GSA and working arrangement between GSA and ESA).

##### ii) Security Governance

As regards security governance, the launch of initial services and the transition from the deployment to the exploitation phase have raised challenges that need to be properly addressed in order to maintain and improve the appropriate level of security for the operation of the EGNSS systems.

##### Lessons learned from Copernicus

Regarding Copernicus, the unprecedented success of the programme and its volume of data led to the following findings:

##### i) Need to improve the distribution and access to data

Due to the very high number of user registrations, the communication aspects, the data distribution and access, and data download need to be improved. There is a need to effectively make available and allow for combination with other data of massive volumes of satellite data and information (10 pB per year generated with a distribution and access system needing to deliver 10 times this volume as the generation of data implies 10 times more in download);

##### ii) Need to strengthen the integration of space data into other policy areas and economic sectors through increased focus on user uptake

Copernicus is reaching user constituencies from the traditional space area but so far did not sufficiently manage to reach other potential users outside space.

### **Achievements and lessons learned from the SST support framework**

#### *Achievements*

The implementation report on the SST support framework highlighted the results in establishing and operating all three functions (sensor, processing and service), taking into account the relatively short timeframe since EU SST service are available for European users. However, implementation needs to be stepped up in the next phase and the EU SST support framework needs to evolve further to improve its effectiveness.

#### *Lessons learned from existing SST support framework*

The reports feedbacks underlined 4 main issues:

##### i- Lack of European dimension

Despite significant achievements, the services suffer from a low collaboration between Member States and stakeholders too often act in silo instead of developing a coordinated approach.

##### ii- Lack of European independence

Main data are currently processed and refined in the US.

##### iii- Issue on Governance

The current rule of consensus creates complications in the day to day management for the decision making process.

##### iv- Complexity of funding mechanism,

Different grants and calls have proved to be technically and administratively burdensome.

#### *1.4.4. Compatibility and possible synergy with other appropriate instruments*

The Space Programme does not cover Research which is covered by the EU ninth Framework Programme for Research and Innovation (Horizon Europe): synergies will be fostered through Space data and services that are provided through the EU Space Programme being used to develop breakthrough solutions.

Space research shall be an integral part of the Global Challenges pillar of Horizon Europe, while the space entrepreneurial innovation ecosystem will be promoted through the Open Innovation pillar and the frontiers of space science will be pushed through the Open Science pillar. Subsequently, the European Union Space Programme will benefit from the results of the Space research and innovation funded through Horizon Europe. This will underpin the evolution of the Union Space Programme systems and services, as well as boost the competitiveness of the space sector.

The Space Programme has similar objectives with other Union programmes, notably Horizon Europe, InvestEU Fund, European Defence Fund and European Structural and Investment Funds.

In particular, synergies between the Union space and Horizon Europe programmes shall ensure that:

(a) Research and innovation needs of the space upstream and downstream sector within the EU are identified and established as part of the Horizon Europe strategic research and innovation planning process;

(b) Space data and services made available as a public good by the European Space Programme will be used to develop breakthrough solutions through research and innovation, including in the Framework Programme, in particular for sustainable food and natural resources, climate monitoring, smart cities, automated vehicles or disaster management.

(c) The Copernicus Data and Information Access Services will contribute to the European Open Science Cloud and thus facilitate access to Copernicus data for researchers and scientists. Research infrastructures, in particular in situ observing networks will constitute essential elements of the in situ observation infrastructure enabling the Copernicus services. In turn, they will benefit from information produced by Copernicus services.

Synergies with the Union InvestEU programme shall ensure that entrepreneurship and business opportunities are fostered through access to risk finance.

In addition, many EU policies benefit also from the EU Space Actions:

The volume, quality and diversity of data that are provided by the Copernicus Services benefit EU policies in domains such as Climate Change Monitoring, Environment Policy or Agriculture for instance. Indeed, many EU policies need precise and reliable data to set-up long term datasets, precise mappings etc. which eventually allow the long term monitoring of key indicators in their domains and ensure an effective implementation of their policy. Combined with navigation services, new EU policies can also be developed in domains such as Smart farming or Intelligent Transport where the highest accuracy of positioning is required.

## 1.5.

### 1.6. Duration and financial impact

#### limited duration

- ✓ in effect from 01/01]2021 to 31/12/2027
- ✓ Financial impact from 2021 to 2027 for commitment appropriations and from 2021 to 2027 and beyond for payment appropriations.

#### unlimited duration

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

### 1.6. Management mode(s) planned<sup>38</sup>

#### Direct management by the Commission

- ✓ by its departments, including by its staff in the Union delegations;
- by the executive agencies

#### Shared management with the Member States

#### Indirect management by entrusting budget implementation tasks to:

- third countries or the bodies they have designated;
- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;
- ✓ bodies referred to in Articles 70 and 71 of the Financial Regulation;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

#### Comments

The different actors in the governance will have the following responsibilities:

(i) The Commission will have the overall responsibility for managing the EU Space Programme and the related actions (Galileo, EGNOS, Copernicus, SSA and GOVSATCOM) - including the specific support activities linked to launchers, international cooperation and

<sup>38</sup>

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

space economy - defining high-level security and policy objectives of the actions and supervising their implementation.

(ii) The European Union Agency for the Space Programme (located in Prague) will be responsible for

- The exploitation of Galileo and EGNOS;
- The operation of the Galileo security monitoring centres;
- The tasks linked to the security accreditation for all the space actions (currently only for Galileo);
- The activities linked to the communication, promotion and marketing of data and information activities with regard to the services offered by all the components of the EU Space Programme (“market and user uptake”) currently performed only for Galileo and EGNOS;
- The management of the intellectual property rights.

Furthermore the regulation will open for the Agency the possibility to implement other tasks in support of all space activities. For example, in case of crisis management missions and operations, the Agency could be responsible for the overarching coordination of user-related aspects of GOVSATCOM in close collaboration with relevant Union agencies and EEAS.

(iii) Subject to adaptations to its internal decision making process allowing for the protection of EU interests, the European Space Agency (ESA) would be entrusted with the same tasks as today: notably Research & Development and evolution, parts of the space infrastructure, the GNSS space and ground segments and the space segment for Copernicus. The relations with ESA will be streamlined under a single financial framework partnership agreement with the Union (as it will be defined in the Financial Regulation), defining a set of common principles and rules while today several contribution agreements and working arrangements with different implementation rules have been signed with ESA by the Commission and the Agency.

(iv) Synergies with national space agencies and their existing programmes will be reinforced, notably through contribution agreements, Public-Public Partnerships, shared management and joint initiatives to promote the uptake of the space-based applications or to support competitiveness and entrepreneurship.

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

The monitoring of the Space actions will be done through a set of indicators adapted for each specific action. These indicators will be developed as per the future negotiations for the contribution agreements of each action and in defining the supervision of actions. Several indicators are already identified, regularly monitored and have been evaluated during the mid-term evaluation for the established Space actions (Copernicus, Galileo and EGNOS). It is expected that most of these indicators will be maintained and also used as a reference for the new actions. Additional specific targets will also be defined as appropriate at action implementation level. Monitoring of the funding allocated for the uptake of research and innovation results, notably from the EU Framework Programmes will also be put in place.

The current submission of the different indicators is related to the submission by the entrusted entities of their quarterly reports; it is planned that the future submissions will follow the same time frame, not preventing the Commission to request any ad hoc reporting.

The future contribution agreements will therefore, as today, provide with the legal framework related to the reporting and will specify in particular the exact definition of indicators and the frequency of submission.

Beyond these standard measures, the Commission, in exercising its powers of political supervision over the Space Programme will strengthen the monitoring and evaluation mechanisms over the entrusted entities by requesting detailed annual management plans and implementation reports as well as organising regular programme progress meetings and carrying out financial and technological audits.

Member States as well will be called to contribute to this exercise, especially for areas under their direct or indirect responsibility.

### **2.2. Management and control system(s)**

#### **2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed***

The governance model proposed for the next financial period builds on the current framework, whilst taking advantage, where appropriate, of synergies, notably as regards security.

The European Commission will be responsible mainly for the overall political supervision of the programmes. It will be able to use the indirect management by delegating the management of operational activities to the European GNSS Agency and to the European Space Agency, according to their area of competence. It will also be able to consult with experts and National Space Agencies on specific technical questions.

As regards the role of the GSA, it is proposed to build on its experience on security accreditation for GNSS to make it responsible for the security accreditation of all Space actions (Galileo, EGNOS, Copernicus, SSA, and GOVSATCOM).

As regards the cooperation with ESA, the objective is to streamline the current framework. Today several delegation agreements and working arrangements with different implementation rules have been concluded with ESA. It is proposed to establish with ESA a framework financial partnership agreement covering all programmes, to allow for coherence in the implementation of activities by ESA. The tasks performed by ESA should remain the same.

The payment modalities should remain similar to the modalities experienced in the previous MFF: the forecast payment is prepared by the agencies, checked by the Commission (in particular regarding the total delegated envelope) and payment is made on a regular basis in order to allow the entrusted entities to effectively manage the procurement and avoid any treasury issue. The Commission keeps the authority when approving a payment, in particular having the legal right to reduce it should the demand and associated forecast is considered excessive.

The control strategy that will be defined in the contribution agreements will be built around the experience acquired in the previous MFF, in particular the quarterly process of reporting (that includes programmatic, financial and risk management reporting) and the different layers of boards (procurement board for instance) and meetings. The future control strategy will rely on the definition of all the risks the programme may face and will take into account their relative importance and potential impact on the programme. This control organisation proved to be effective for the main actions Galileo, EGNOS and Copernicus as stated in the respective mid-term evaluations.

The control strategy currently put in place has been audited by the Court of Auditors through their annual transactions verification process and by the IAS through specific audits; the recommendations were minor and actually implemented.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

*Identified risks*

The identified risks are similar to the risks that were defined in the previous MFF for the existing actions mainly GNSS and Copernicus and to a lesser extent SST:

Technological Risk: space actions use leading-edge technology which has yet to be validated and the specifications of which are constantly evolving.

Industrial Risk: establishing and upgrading the infrastructures involves many industrial players, in a number of countries, whose work has to be coordinated effectively in order to arrive at systems which are reliable and fully integrated, particularly with regard to security.

Timetable Risk: any delay in implementation would jeopardise the window of opportunity and would be likely to generate cost over-runs.

Governance risk: governance of the programmes requires various bodies to work together, and an appropriate degree of stability and organisation has to be guaranteed. Moreover, differences of opinion between the various parties involved, and in particular between the Member States, have to be taken into account on several major issues. In this context the sharing of some risks, including financial and security-related risks, among those players who are best placed to cope with them, should be considered.

The financial risks are limited due to the tight follow-up by the Commission of procurements managed by the entrusted entities (for instance, participation of EC to key procurement boards, scrutiny of long-term planning and procurement budgets etc.), the budget that is legally limited and the adjustments, within the framework of the budget, in case of over-runs in one or the other part of the programme.

#### *Current activities*

Regarding Galileo, EGNOS and Copernicus services, the risks are linked to their continuity and their evolutions and are therefore limited on the basis of several years of experience in implementing these activities. The implementation of these actions has proven to be successful as per the conclusions of the related mid-term reviews, confirmed by the continuous delivery of services and data. Furthermore, the risk management is an integral part of the management of the Space actions, monitored by the Commission. The Programme Management Plan, which is an integral part of the delegations agreements signed with the ESA, specifically provides all the tools and measures (reporting, control boards etc.) regarding the risk management. The monitoring processes and risk management action that have been set-up in the current MFF will be used for the definition of the future contribution agreements.

#### *New activities*

There are risks related to the development of SST and GOVSATCOM as they are new activities. Yet, these risks are mitigated since:

- An important part of the SSA activities has already started with the support framework SST (5 years). Lessons learned from the first years of implementation are currently leading to changes in the structure and implementation of the programme (governance, decision-making process etc.). The new regulation will take into account these necessary changes in order to reduce the risks of non-achievement of the objectives.
- The GOVSATCOM initiative is planned to be gradually implemented in order to allow enough flexibility and adjustment to evolving demand and needs. In addition with the expertise of the EU in the field of space actions management, this will allow, together with the modularity of the initiative, to adjust its scope in order to avoid, for instance any oversized procurements.

#### *Internal control*

The DG GROW general internal control system relies on the different reports provided by the entrusted entities on a quarterly basis. These reports are followed by dedicated reviews to ensure that the planning is respected and to solve any technical difficulty, these reviews include a follow-up of the risks associated to programme implementation. In addition, ex-post audits are performed by DG GROW to ensure sound financial management from entrusted entities.

### 2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The main budget of the programme is managed by the Agency, ESA and Eumetsat through contribution agreements. Based on past data, the overall control costs of all the entrusted entities by the Commission are estimated around 0.3% of the related

funds managed. The cost of implementing bodies would be estimated, based on the previous period, between 5 and 10%.

The expected levels of risk of error both at payment and at closure are limited, taking into account the mechanism of procurement: the commission delegates the procurement to either the Agency or the ESA under a multi annual financial framework and these agencies report on a quarterly basis on the actual and forecasted procurements, within the limits of the delegated amounts.

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

The contribution agreements resulting from the Space Programme Regulation that will be concluded with third parties shall likely provide for supervision and financial control by the Commission or any representative authorised by it together with audits by the Court of Auditors or OLAF, at the discretion of the EU, if necessary on-the-spot.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	01	Single Market, Innovation & Digital – Cluster 4 Space
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			2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
04.0201 Operational appropriations European Space Programme	Commitments	(1a)	2140.879	2183.957	2229.896	2277.715	2322.428	2369.057	2416.068		<b>15 940.000</b>
	Payments	(2a)	1123.106	1694.827	1942.491	2068.738	2239.144	2326.57	2370.309	2174.816	<b>15 940.000</b>
04.01 Appropriations of an administrative nature financed from the envelope of the programme	Commitments = Payments	(3)	8.000	8.000	8.000	8.000	9.000	9.000	10.000	0.000	<b>60.000</b>
<b>TOTAL appropriations for the envelop of the programme</b>	Commitments	=1+3	<b>2148.879</b>	<b>2191.957</b>	<b>2237.896</b>	<b>2285.715</b>	<b>2331.428</b>	<b>2378.057</b>	<b>2426.068</b>		<b>16 000.000</b>
	Payments	=2+3	<b>1131.106</b>	<b>1702.827</b>	<b>1950.491</b>	<b>2076.738</b>	<b>2248.144</b>	<b>2335.570</b>	<b>2380.309</b>	<b>2174.816</b>	<b>16 000.000</b>

<b>Heading of multiannual financial framework</b>	7	‘Administrative expenditure’
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This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the [Annex to the Legislative Financial Statement](#) (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

	2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
Human resources	16.321	16.321	16.321	16.321	16.321	16.321	16.321		114.247

Other administrative expenditure		1.695	1.729	1.763	1.799	1.835	1.871	1.909		<b>12.601</b>
<b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b>	(Total commitments = Total payments)	<b>18.016</b>	<b>18.050</b>	<b>18.084</b>	<b>18.120</b>	<b>18.156</b>	<b>18.192</b>	<b>18.230</b>		<b>126.848</b>

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
<b>TOTAL appropriations across HEADINGS of the multiannual financial framework</b>	Commitments	2166.895	2210.007	2255.980	2303.835	2349.584	2396.249	2444.298	0.000	16126.848
	Payments	1149.122	1720.877	1968.575	2094.858	2266.300	2353.762	2398.539	2174.815	16126.848

For information, in addition to the Space Programme, the MFF package includes a separate envelope for the EU contribution to the Agency

			2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
Operational appropriations 04.0202 EU Contribution to the Agency	Commitments	(1b)	31.170	31.587	32.223	33.091	34.209	35.601	37.119		<b>235.000</b>
	Payments	(2b)	31.170	31.587	32.223	33.091	34.209	35.601	37.119		<b>235.000</b>

### 3.1.2. Summary of estimated impact on appropriations of an administrative nature

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
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<b>HEADING 7 of the multiannual financial framework</b>								
Human resources	16.321	16.321	16.321	16.321	16.321	16.321	16.321	<b>114.247</b>
Other administrative expenditure	1.695	1.729	1.763	1.799	1.835	1.871	1.909	<b>12.601</b>
<b>Subtotal HEADING 7 of the multiannual financial framework</b>	<b>18.016</b>	<b>18.050</b>	<b>18.084</b>	<b>18.120</b>	<b>18.156</b>	<b>18.192</b>	<b>18.230</b>	<b>126.848</b>

<b>Outside HEADING 7 of the multiannual financial framework</b>								
Human resources								
Other expenditure of an administrative nature (former BA lines)	8.000	8.000	8.000	8.000	9.000	9.000	10.000	60.000
<b>Subtotal outside HEADING 7 of the multiannual financial framework</b>								

<b>TOTAL</b>	<b>26.016</b>	<b>26.050</b>	<b>26.084.</b>	<b>26.120</b>	<b>27.156</b>	<b>27.192</b>	<b>28.230</b>	<b>186.848</b>
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

### 3.1.2.1. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

Years		2021	2022	2023	2024	2025	2026	2027
<b>Establishment plan posts (officials and temporary staff)</b>								
Headquarters and Commission's Representation Offices		93	93	93	93	93	93	<b>93</b>
Delegations								
Research								
<b>External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED</b>								
<b>Heading 7</b>								
Financed from HEADING 7 of the multiannual financial framework	- at Headquarters	39	39	39	39	39	39	<b>39</b>
	- in Delegations							
Financed from the envelope of the programme	- at Headquarters							
	- in Delegations							
Research								
Other (specify)								
<b>TOTAL</b>		<b>132</b>						

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	93
External staff	39

### 3.1.3. Third-party contributions

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
Specify the co-financing body								
TOTAL appropriations co-financed								

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Impact of the proposal/initiative						
	2021	2022	2023	2024	2025	2026	2027
Article .....							

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).