

## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## REGULATION (EC) No 683/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 9 July 2008

**on the further implementation of the European satellite navigation programmes (EGNOS and Galileo)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 156 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The aim of European satellite navigation policy is to provide the Community with two satellite navigation systems (hereinafter the systems). These systems are established under the EGNOS and Galileo programmes (hereinafter the programmes). Each infrastructure is made up of satellites and a network of earth stations.
- (2) The aim of the Galileo programme is to establish the first global satellite navigation and positioning infrastructure specifically designed for civilian purposes. The system established under the Galileo programme is completely independent of other existing or potential systems.
- (3) The aim of the EGNOS programme is to improve the quality of signals from existing global navigation satellite systems (hereinafter GNSS).

(4) The European Parliament, the Council and the European Economic and Social Committee have consistently given their full support to the programmes.

(5) The development of satellite navigation is fully in line with the Lisbon Strategy and other Community policies, such as transport policy as set out in the Commission's White Paper of 12 September 2001 entitled 'European transport policy for 2010: time to decide'. In its work programme the Commission should, if appropriate, accord special attention to the development of GNSS applications and services.

(6) The programmes are among the priority projects included in the Lisbon Action Programme for Growth and Employment proposed by the Commission and endorsed by the European Council. They are also considered one of the major pillars of the future European Space Programme, as described in the Commission Communication of 26 April 2007 on European Space Policy.

(7) The Galileo programme consists of a definition phase, a development and validation phase, a deployment phase and an exploitation phase. The deployment phase is set to begin in 2008 and end in 2013. The system should be operational by 2013.

(8) The definition phase and the development and validation phase of the Galileo programme, which are the phases of the programme dedicated to research, have been financed substantially by the Community budget for trans-European networks and by the European Space Agency (hereinafter ESA). The deployment phase should, in principle, be financed entirely by the Community. It may be decided at a later stage that public-private partnerships or any other form of contract with private sector entities are appropriate for the operation, maintenance, improvement and renewal of the system after 2013.

<sup>(1)</sup> OJ C 221, 8.9.2005, p. 28.

<sup>(2)</sup> Opinion of the European Parliament of 23 April 2008 (not yet published in the Official Journal) and Council Decision of 3 July 2008.

- (9) The Safety-of-Life Centre in Madrid may decide to evolve into a fully qualified, equivalent Galileo Satellite Control Centre, the assets of which will be owned by the Community. The investment necessary for this evolution will be without additional costs to the agreed Community budget for the programmes for the period 2007-2013. In that case, whilst not affecting the operational capabilities of the Galileo Satellite Control Centres in Oberpfaffenhofen and Fucino, the Commission will ensure that, provided that it is able to meet all the requirements applicable to all centres, the Centre in Madrid is fully operationally qualified as a Galileo Satellite Control Centre by the end of 2013 and is included in the Galileo network of the centres mentioned above.
- (10) It is important that the financing of the EGNOS system, including its operations, sustainability and marketing, is ensured by the Community. The operation of EGNOS might be the subject of one or more public service contracts, in particular with private sector entities, until it is integrated into the operations of Galileo.
- (11) As the programmes have now reached an advanced stage of maturity and have gone well beyond the framework of simple research projects, it is necessary to give them a specific legal basis which is better able to satisfy their needs and respond to the requirement for sound financial management.
- (12) The systems established under the programmes are infrastructures set up as trans-European networks whose use extends well beyond the national boundaries of the Member States. Furthermore, the services offered through these systems contribute, in particular, to the development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.
- (13) Sound public governance of the Galileo and EGNOS programmes requires, first, that there is a strict division of responsibilities between the Commission, the European GNSS Supervisory Authority (hereinafter the Authority) and ESA and, second, that the Community, represented by the Commission, ensures the management of the programmes. The Commission should establish the appropriate instruments and possess the necessary resources, in particular in terms of the assistance it requires.
- (14) In view of the importance, uniqueness and complexity of the programmes, the Community ownership of systems resulting from the programmes, and the full financing from the Community budget of the programmes for the period 2008-2013, the European Parliament, the Council and the Commission recognise the usefulness of close cooperation between the three institutions. To this end, the European Parliament, the Council and the Commission will meet in the Galileo Interinstitutional Panel in accordance with the Joint declaration on the Galileo Interinstitutional Panel of 9 July 2008.
- (15) Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes <sup>(1)</sup> establishes the Authority. The Authority is a Community agency, which, as a body within the meaning of Article 185 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(2)</sup> (hereinafter the Financial Regulation), is subject to the obligations laid down for Community agencies.
- (16) Respecting the Commission's role as manager of the programmes and in accordance with guidelines issued by the Commission, the Authority should ensure the security accreditation of the systems and the operation of the Galileo security centre and contribute to the preparation of the commercialisation of the systems with a view to smooth functioning, seamless service provision and high market penetration. In addition, the Authority should also accomplish other tasks that might be entrusted to it by the Commission in accordance with the Financial Regulation, in particular promoting applications and services and ensuring the certification of the components of the systems.
- (17) The European Parliament and the Council invite the Commission to put forward a proposal in order to align formally the management structures of the programmes as set out in Regulation (EC) No 1321/2004 with the new roles of the Commission and the Authority.
- (18) In order to guarantee the continuation of the programmes, it is necessary to establish an appropriate financial and legal framework to allow the Community to continue to fund the programmes. It is also necessary to indicate the amount of money required between 1 January 2007 and 31 December 2013 to fund the remainder of the development and validation phase and the deployment phase of Galileo, the operation of EGNOS and the preparation for the exploitation phase of the programmes.
- (19) The European Parliament and the Council have decided that the total estimated operating costs for the Galileo and EGNOS systems for the period 2007-2013 are EUR 3 405 million. EUR 1 005 million had originally been earmarked in the multiannual financial framework (2007 to 2013).

<sup>(1)</sup> OJ L 246, 20.7.2004, p. 1. Regulation as amended by Regulation (EC) No 1942/2006 (OJ L 367, 22.12.2006, p. 18).

<sup>(2)</sup> OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

This amount has been increased by EUR 2 000 million <sup>(1)</sup>. Furthermore, EUR 400 million has been made available through the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) <sup>(2)</sup> (hereinafter the Seventh Framework Programme), thus bringing the total available budget to EUR 3 405 million for the programmes for the period 2007-2013.

- (20) In the allocation of those Community funds, effective procurement procedures and contract negotiations that obtain the best value for money and secure performance completion, the seamless continuity of programmes, risk management and adherence to the proposed timetable are essential. These should be ensured by the Commission.
- (21) Pursuant to the Financial Regulation, Member States, third countries and international organisations should be free to contribute financially or in-kind to the programmes on the basis of appropriate agreements.
- (22) It should be pointed out that the investment costs and the costs of operating the Galileo and EGNOS systems as currently estimated for the period 2007-2013 do not take account of unforeseen financial obligations which the Community may be obliged to bear, in particular those relating to non-contractual liability arising from the public ownership of the systems, especially with regard to force majeure and catastrophic failure.
- (23) Furthermore, revenue from the operation of the Galileo and EGNOS systems, arising, in particular, from the commercial service provided by the system established under the Galileo programme, should be collected by the Community in order to ensure that its earlier investments are recovered. However, it should be possible to provide for a revenue-sharing mechanism in contracts concluded with private sector entities.
- (24) The Community should conclude a multi-annual delegation agreement with ESA covering the technical and planning aspects of the programmes. In order for the Commission, as representative of the Community, to exercise fully its power of audit, the delegation agreement should include the general conditions governing the management of funds entrusted to ESA.
- (25) As the programmes will be financed by the Community, public procurement under the programmes should comply

with Community rules on public contracts and should aim, first and foremost, to attain value for money, control costs, mitigate risks, improve efficiency and decrease reliance on single suppliers. Open access and fair competition throughout the industrial supply chain and the balanced offering of participation opportunities to industry at all levels, including, in particular, to small and medium-sized enterprises (SMEs), should be pursued across Member States. Possible abuse of dominance or long-term reliance on single suppliers should be avoided. In order to mitigate programme risks, to avoid reliance on single suppliers and to ensure better overall control of the programmes and their costs and schedules, dual sourcing should be pursued, wherever appropriate. European industries should be permitted to rely on non-European sources for certain components and services where substantial advantages in terms of quality and costs are demonstrated, taking account, however, of the strategic nature of the programmes and of European Union security and export control requirements. Advantage should be taken of public sector investment and industrial experience and competence, including that acquired during the definition, and development and validation phases of the programmes, while ensuring that the rules on competitive tendering are not prejudiced.

- (26) All work packages in the framework of the activities of the deployment phase of Galileo should be open to the maximum possible competition, in line with the procurement principles of the European Union. In order to ensure satisfactory procurement, work packages should be widely open to new entrants and SMEs, while ensuring technological excellence and cost effectiveness.
- (27) As sound public governance requires uniform management of the programmes, faster decision-making and equal access to information, representatives of the Authority and ESA may be involved in the work of the European GNSS Programmes Committee (hereinafter the Committee) established to assist the Commission.
- (28) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission <sup>(3)</sup>.
- (29) In particular, the Commission should be empowered to adopt any measures necessary to ensure the compatibility and interoperability of the systems. Since those measures

<sup>(1)</sup> Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (OJ C 139, 14.6.2006, p. 1). Agreement as amended by Decision 2008/29/EC of the European Parliament and of the Council (OJ L 6, 10.1.2008, p. 7).

<sup>(2)</sup> OJ L 412, 30.12.2006, p. 1.

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

are of general scope and are designed to amend non-essential elements of this Regulation by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (30) The Community should be the owner of all tangible and intangible assets created or developed under the programmes. In order to fully respect any fundamental rights relating to ownership, the appropriate agreements should be concluded with existing owners.
- (31) Careful attention should be paid to the certification of EGNOS for all modes of transport, in particular for aviation, in order to declare the system operational and allow its use as soon as possible.
- (32) This Regulation lays down, for the continuation of the programmes, a financial envelope constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management, for the budgetary authority during the annual budgetary procedure.
- (33) Since the objective of this Regulation, namely the establishment of satellite navigation systems, cannot be sufficiently achieved by the Member States since it exceeds the financial and technical capacities of any single Member State, and can therefore be better achieved by action at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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.
- (34) It is necessary to ensure that the European Parliament and the Council are kept regularly informed about the implementation of the programmes,

HAVE ADOPTED THIS REGULATION:

#### CHAPTER I

#### SUBJECT MATTER AND GENERAL PRINCIPLES

##### Article 1

#### European satellite navigation systems and programmes

1. The EGNOS and Galileo programmes shall cover all the activities needed to define, develop, validate, construct, operate, renew and improve the two European satellite navigation systems, namely the EGNOS system and the system established under the Galileo programme.

2. The EGNOS system is an infrastructure monitoring and correcting signals emitted by existing global satellite navigation systems. It consists of earth stations and several transponders installed on geostationary satellites.

3. The system established under the Galileo programme is an autonomous global navigation satellite system (GNSS) infrastructure consisting of a constellation of satellites and a global network of earth stations.

4. The specific objectives of the programmes are set out in the Annex.

#### Article 2

#### Subject

This Regulation lays down the rules for the further implementation of the programmes, including those on governance and the financial contribution of the Community.

#### Article 3

#### The phases of the Galileo programme

The Galileo programme shall consist of the following phases:

- (a) a definition phase during which the structure of the system was designed and its elements determined, which ended in 2001;
- (b) a development and validation phase, comprising the construction and launch of the first satellites, the establishment of the first ground-based infrastructures and all the work and operations necessary to validate the system in orbit. The aim is that this phase shall end in 2010;
- (c) a deployment phase consisting of the establishment of all the space and ground-based infrastructures as well as related operations. The aim is that this phase shall run from 2008 to 2013. It shall include preparations for the exploitation phase;
- (d) an exploitation phase comprising infrastructure management, the maintenance, constant improvement and renewal of the system, certification and standardisation operations relating to the programme, the marketing of the system and all other activities needed to develop the system and ensure that the programme runs smoothly. The exploitation phase is set to begin at the latest upon conclusion of the deployment phase.

#### Article 4

#### Financing the Galileo programme

1. The development and validation phase shall be financed by the Community and ESA.

2. The deployment phase shall be financed by the Community without prejudice to paragraphs 4 and 5.

3. In 2010, the Commission shall, if appropriate, submit to the European Parliament and the Council, together with its mid-term review, a proposal concerning the public funds and commitments required for the financing programming period starting in 2014, also covering any financial obligations with regard to the exploitation phase deriving from its responsibility relating to the public ownership of the system, the revenue-sharing mechanism for the exploitation phase, and objectives for a pricing policy ensuring that customers receive high quality services at fair prices. It shall, in particular, include a reasoned feasibility study of the advantages and disadvantages of the use of service concession contracts or public service contracts with private sector entities.

Where applicable, the Commission shall also propose, together with its mid-term review, any appropriate measures that facilitate the development of satellite navigation applications and services.

4. Member States may provide additional funding to the Galileo programme to cover the investment necessary for the evolution to the agreed system architecture in particular cases. The revenue arising from these contributions shall constitute assigned revenue in accordance with Article 18(2) of the Financial Regulation. In accordance with the principle of transparent management, the Commission shall communicate any impact on the Galileo programme resulting from the application of this paragraph to the Committee.

5. Third countries and international organisations may also provide additional funding to the Galileo programme. Agreements concluded by the Community with such entities pursuant to Article 300 of the Treaty shall lay down the conditions of and detailed rules governing their involvement.

#### Article 5

### Operation of the EGNOS system

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

#### Article 6

### Financing the operation of the EGNOS system

1. The Community shall finance the operation of EGNOS, without prejudice to any contribution from any other source, including those referred to in paragraphs 3 and 4.

2. The operation of EGNOS shall initially be the subject of one or more public service contracts.

3. Member States may provide additional funding to the EGNOS programme. The revenue arising from these contributions shall constitute assigned revenue in accordance with Article 18(2) of the Financial Regulation.

4. Third countries and international organisations may also provide additional funding to the EGNOS programme. Agreements concluded by the Community with such entities pursuant to Article 300 of the Treaty shall lay down the conditions of and detailed rules governing their involvement.

#### Article 7

### Compatibility and interoperability of the systems

1. The Commission shall make every effort to ensure the compatibility and interoperability of the systems, networks and services of EGNOS and Galileo and shall pursue the benefits of compatibility and interoperability of EGNOS and Galileo with other navigation systems and where possible with conventional means of navigation.

2. Measures necessary to that end, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(5).

#### Article 8

### Ownership

The Community shall be the owner of all tangible and intangible assets created or developed under the programmes, to which effect agreements shall be concluded with third parties, wherever appropriate, with regard to existing ownership rights.

## CHAPTER II

### BUDGETARY CONTRIBUTION AND MECHANISMS

#### Article 9

### Activities concerned

1. The Community budgetary appropriations allocated to the programmes under this Regulation shall be granted to finance:

- (a) activities relating to the completion of the development and validation phase of the Galileo programme;
- (b) activities relating to the deployment phase of the Galileo programme, including actions to manage and monitor this phase;
- (c) activities relating to the operation of EGNOS as well as actions preceding or preparatory to the exploitation phase of the programmes.

2. In order to allow the costs of the programmes and of the different phases of the programmes to be clearly identified, the Commission, in accordance with the principle of the transparent management, shall inform the Committee annually of the allocation of Community funds to each of the activities specified in the paragraph 1.

#### Article 10

##### Budgetary resources

1. The amount allocated to implement the activities specified in Article 9 is EUR 3 405 million for the period from 1 January 2007 to 31 December 2013. This includes EUR 400 million made available from the Seventh Framework Programme.

2. Appropriations shall be authorised annually by the budgetary authority within the limits laid down in the multiannual financial framework. They shall be implemented in accordance with the provisions of the Financial Regulation.

3. Budgetary commitments for the programmes shall be appropriated in annual instalments.

#### Article 11

##### Operating income

1. Income from the operation of the systems shall be collected by the Community, paid into the Community budget and allocated to the programmes. If the income proves to be more than required for the programmes, any adaptation of the principle of allocation shall be subject to approval by the budgetary authority on the basis of a proposal from the Commission.

2. A revenue-sharing mechanism may be provided for in contracts concluded with private sector entities.

#### CHAPTER III

##### PUBLIC GOVERNANCE OF THE PROGRAMMES

#### Article 12

##### General framework for governance of the programmes

1. Public governance of the programmes shall be based on the principle of a strict division of responsibilities between the Community, represented by the Commission, the Authority and ESA.

2. The Commission, assisted by the Committee, shall be responsible for the management of the programmes, which it shall carry out in a transparent manner. It shall avoid duplication of structures and functions through a clear division of tasks with the Authority and ESA. It may be assisted by experts from

Member States and it shall carry out financial and technical audits.

3. The Commission shall establish the appropriate instruments, including the implementation of integrated risk management at all levels of the programmes and structural measures to identify, control, mitigate and monitor risks, and shall ensure that it possesses the resources needed to accomplish this task. For this purpose, the Commission shall, in accordance with the advisory procedure referred to in Article 19(2), establish key decision points for reviews of the implementation of the programmes.

#### Article 13

##### Governance of security matters

1. The Commission shall manage all questions relating to the security of the systems, duly taking into account the need for oversight and integration of security requirements in the overall programmes.

2. The Commission shall, in accordance with the regulatory procedure referred to in Article 19(4), adopt implementing measures laying down the main technical requirements for controlling the access to, and handling of, technologies that provide security to the systems.

3. The Commission shall ensure that the necessary steps are taken to comply with the measures referred to in paragraph 2 and that any further requirements related to the security of the systems are met, taking full account of expert advice.

4. Whenever the security of the European Union or its Member States may be affected by the operation of the systems, the procedures set out in Council Joint Action 2004/552/CFSP of 12 July 2004 on aspects of the operation of the European satellite radio-navigation system affecting the security of the European Union <sup>(1)</sup> shall apply.

5. Matters falling exclusively within Title V and/or Title VI of the Treaty on European Union shall not fall within the remit of the Committee.

#### Article 14

##### Application of security regulations

1. Each Member State shall ensure that security regulations ensuring a degree of protection at least equivalent to that guaranteed by the Commission's rules on security set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom <sup>(2)</sup> and by the security regulations of the Council set out in the Annex to Council Decision 2001/264/EC <sup>(3)</sup> apply to all natural persons resident on its territory and all legal entities established on its territory which deal with EU classified information regarding the programmes.

<sup>(1)</sup> OJ L 246, 20.7.2004, p. 30.

<sup>(2)</sup> Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure (OJ L 317, 3.12.2001, p. 1). Decision as last amended by Decision 2006/548/EC (OJ L 215, 5.8.2006, p. 38).

<sup>(3)</sup> Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations (OJ L 101, 11.4.2001, p. 1). Decision as last amended by Decision 2007/438/EC (OJ L 164, 26.6.2007, p. 24).

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

3. Natural persons resident in third countries and legal entities established in third countries may deal with EU classified information regarding the programmes only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that guaranteed by the Commission's rules on security set out in the Annex to Decision 2001/844/EC, ECSC, Euratom and by the security regulations of the Council set out in the Annex to Decision 2001/264/EC. The security regulations of ESA shall be considered as equivalent to those rules and regulations. The equivalence of security regulations applied in a third country may be recognised in an agreement with that country.

#### Article 15

### Programming

1. The Commission shall manage the funds allocated to the programmes under this Regulation.

2. The Commission shall adopt measures to define a strategic framework for the establishment of a work programme in accordance with the requirements of this Regulation. The strategic framework shall include the main actions, the estimated budget and the time-table necessary to meet the objectives laid down in the Annex.

Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(5).

3. The Commission shall adopt the work programme, which includes the programme implementation plan and associated financing, reviewed on an annual basis, and any amendments thereto in accordance with the management procedure referred to in Article 19(3).

4. The measures financed under this Regulation shall be implemented in accordance with the Financial Regulation.

#### Article 16

### The role of the European GNSS Supervisory Authority

Subject to the provisions of Article 12 and the respect of the Commission's role as manager of the programmes, the Authority shall accomplish the following tasks within the programmes in accordance with guidelines issued by the Commission:

- (a) with regard to the security of the programmes, and without prejudice to Articles 13 and 14, it shall ensure:
  - (i) security accreditation; to that effect it shall initiate and monitor the implementation of security procedures and perform system security audits,

- (ii) the operation of the Galileo security centre, implemented in accordance with decisions taken pursuant to Article 13 and the instructions provided under Joint Action 2004/552/CFSP;

- (b) it shall contribute to the preparation of the commercialisation of the systems, including the necessary market analysis;

- (c) it shall also accomplish other tasks that may be entrusted to it by the Commission, in accordance with Article 54(2)(b) of the Financial Regulation, addressing specific issues linked to the programmes, such as:
  - (i) promoting applications and services in the satellite navigation market;
  - (ii) ensuring that the components of the systems are certified by the appropriate, duly authorised, certification bodies.

#### Article 17

### Procurement principles related to the deployment phase of the Galileo programme

1. The Community's public procurement rules, in particular open access and fair competition throughout the industrial supply chain, tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules, selection criteria and any other relevant information allowing a level-playing field for all potential bidders, shall apply to the deployment phase of the Galileo programme without prejudice to measures required to protect the essential interests of the security of the European Union or public security or to comply with European Union export control requirements.

2. During the procurement, the following objectives shall be pursued:

- (a) promoting the balanced participation of industry at all levels, including, in particular, SMEs, across Member States;

- (b) avoiding possible abuse of dominance and avoiding long-term reliance on single suppliers;

- (c) taking advantage of prior public sector investments and lessons learned, as well as industrial experience and competence, including that acquired in the definition and development and validation phases of the programmes, while ensuring that the rules on competitive tendering are not prejudiced.

3. To that end, the following principles for the procurement of the activities of the deployment phase of the Galileo programme shall apply:

- (a) the procurement of the infrastructure shall be split into a set of six main work packages (system engineering support, ground mission infrastructure completion, ground control infrastructure completion, satellites, launchers and operations), as well as a number of additional work packages, through a comprehensive overall procurement break-down; this does not rule out the prospect of multiple simultaneous procurement strands for individual work packages, including for satellites;
- (b) competitive tendering shall be ensured for all packages and, for the six main work packages, a single procedure shall be applied whereby any one independent legal entity, or a group represented for this purpose by a legal entity belonging to that group, may bid for the role of prime contractor for a maximum of two of the six main work packages;
- (c) at least 40 % of the aggregate value of the activities shall be subcontracted by competitive tendering at various levels to companies other than those belonging to groups of entities that are prime contractors for any of the main work packages; the Commission shall, on a regular basis, report to the Committee on the fulfilment of this principle. In the event that projections establish that it may not be possible to reach the 40 % threshold, the Commission shall, in accordance with the management procedure referred to in Article 19(3), take the appropriate measures;
- (d) dual sourcing shall be pursued wherever appropriate in order to ensure better overall control of the programme, its costs and schedule.

#### Article 18

##### The role of the European Space Agency

1. On the basis of the principles set out in Article 17, the Community, represented by the Commission, shall conclude a multi-annual delegation agreement with ESA, on the basis of a delegation decision adopted by the Commission in accordance with Article 54(2) of the Financial Regulation which shall cover the delegated tasks and budget implementation relating to the implementation of the Galileo programme, in particular the deployment phase.

2. The delegation agreement shall, insofar as necessary for the tasks and budget implementation delegated under paragraph 1, lay down the general conditions for the management of the funds entrusted to ESA, and, in particular, the actions to be implemented, the relevant financing, management procedures

and monitoring and inspection measures, the measures applicable in the event of inadequate performance of contracts and the rules regarding ownership of all tangible and intangible assets.

3. The Committee shall be consulted on the delegation decision referred to in paragraph 1 of this Article, in accordance with the advisory procedure referred to in Article 19(2). The Committee shall be informed of the multi-annual delegation agreement to be concluded between the Community, represented by the Commission, and ESA.

4. The Committee shall be informed by the Commission of the interim and end results of the evaluation of the procurement tenders and of the contracts with private sector entities to be concluded by ESA.

#### Article 19

##### Committee procedure

1. The Commission shall be assisted by a committee called the 'European GNSS Programmes Committee' (the Committee).

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

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

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

5. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

6. Representatives of the Authority and ESA may be involved as observers in the work of the Committee under the conditions laid down in its rules of procedure.

7. Agreements concluded by the Community pursuant to Articles 4(5) and 6(4) may provide for the participation of third countries or international organisations in the work of the Committee under the conditions laid down in its rules of procedure.

*Article 20***Protection of personal data and privacy**

The Commission shall ensure that protection of personal data and privacy is guaranteed and that appropriate safeguards are integrated into the technical structures of the systems.

## CHAPTER IV

## FINAL PROVISIONS

*Article 21***Protection of the Community's financial interests**

1. The Commission shall ensure that, when actions financed under this Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests <sup>(1)</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 <sup>(2)</sup> and with Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) <sup>(3)</sup>.

2. For the Community actions financed under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the

general budget of the European Union or budgets managed by it, by an unjustified item of expenditure.

3. Agreements resulting from this Regulation, including agreements concluded with participating third countries and international organisations, shall provide for supervision and financial control by the Commission, or any representative authorised by it, and audits by the Court of Auditors, if necessary on-the-spot.

*Article 22***Information to the European Parliament and to the Council**

The Commission shall ensure the implementation of this Regulation. Each year, when it presents the preliminary draft budget, it shall present a report to the European Parliament and to the Council on the implementation of the programmes. A mid-term review shall be carried out in 2010, which shall include a review of costs, risks and likely revenues from the services offered by Galileo, *inter alia*, in the light of technological and market developments, to inform the European Parliament and the Council of the progress made on the programmes.

*Article 23***Repeal**

Article 7 of Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking <sup>(4)</sup> shall be repealed with effect from 25 July 2009.

*Article 24***Entry into force**

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

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

Done at Strasbourg, 9 July 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

J.-P. JOUYET

<sup>(1)</sup> OJ L 312, 23.12.1995, p. 1. Regulation as amended by Commission Regulation (EC) No 1233/2007 (OJ L 279, 23.10.2007, p. 10).

<sup>(2)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(3)</sup> OJ L 136, 31.5.1999, p. 1.

<sup>(4)</sup> OJ L 138, 28.5.2002, p. 1. Regulation as amended by Regulation (EC) No 1943/2006 (OJ L 367, 22.12.2006, p. 21).

## ANNEX

**SPECIFIC OBJECTIVES OF THE EUROPEAN SATELLITE NAVIGATION PROGRAMMES**

The specific objectives of the Galileo programme are to ensure that the signals emitted by the system can be used to fulfil the following five functions:

- to offer an open service (OS), which is free to the user and provides positioning and synchronisation information intended for high-volume satellite navigation applications,
- to offer a safety-of-life service (SoL) aimed at users for whom safety is essential. This service also fulfils the requirements of certain sectors for continuity, availability and accuracy and includes an integrity message alerting the user to any failure in the system,
- to offer a commercial service (CS) for the development of applications for professional or commercial use due to improved performance and data with greater added value than those obtained through the open service,
- to offer a public regulated service (PRS) restricted to government-authorised users, for sensitive applications which require a high level of service continuity. The public regulated service uses strong, encrypted signals,
- to participate in the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting emergency signals given off by beacons and relaying messages to them.

The specific objectives of the EGNOS programme are to ensure that the EGNOS system fulfils the following three functions:

- to offer an open service (OS), which is free to the user and provides positioning and synchronisation information intended for high-volume satellite navigation applications in the area covered by the system,
  - to offer a service for the dissemination of commercial data to assist the development of applications for professional or commercial use due to improved performance and data with greater added value than those obtained through the open service,
  - to offer a safety-of-life service (SoL) service aimed at users for whom safety is essential. In particular, this service fulfils the requirements of certain sectors for continuity, availability and accuracy and includes an integrity message alerting the user to any failure in the system over the coverage area.
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**JOINT DECLARATION****by the European Parliament, the Council and the European Commission****on the****GALILEO INTERINSTITUTIONAL PANEL (GIP)**

1. In view of the importance, uniqueness and complexity of the European GNSS programmes, the Community ownership of systems resulting from the programmes, the full financing of the Community budget of the programmes for the period 2008-2013, the European Parliament, the Council, and the European Commission recognise the need for close cooperation of the three institutions.
  2. A Galileo Interinstitutional Panel (GIP) will meet with the objective to facilitate each Community institution exercising its respective responsibility. To this end, the GIP will be set up in order to follow closely:
    - (a) the progress on the implementation of the European GNSS programmes, in particular with regard to the implementation of the procurement and the contract agreements, in particular with regard to the ESA;
    - (b) the International Agreements with third countries without prejudice to the provisions of Article 300 of the Treaty;
    - (c) the preparation of satellite navigation markets;
    - (d) the effectiveness of the governance arrangements; and
    - (e) the annual review of the work programme.
  3. In accordance with existing rules, the GIP will respect the need for discretion in particular in view of the commercial-in-confidence and sensitive nature of certain data.
  4. The Commission will take account of the views expressed by the GIP.
  5. The GIP will be composed of seven representatives, of which:
    - three from the Council,
    - three from the EP,
    - one from the Commission,and will meet on a regular basis (in principle four times per year).
  6. The GIP does not affect the established responsibilities or interinstitutional relationships.
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