

**REGULATION (EU) 2021/696 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 28 April 2021****establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU**

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 <sup>(1)</sup>,

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. Therefore, for the Union to remain a leading international player with extensive freedom of action in the space domain, it is crucial that it encourages scientific and technical progress and supports the competitiveness and innovation capacity of space sector industries within the Union, in particular small and medium-sized enterprises (SMEs), start-ups and innovative businesses.
- (2) The possibilities that space offers for the security of the Union and its Member States should be exploited, as referred to in particular in the Global Strategy for the European Union's Foreign and Security Policy of June 2016, while retaining the civil nature of the Union Space Programme ('the Programme') and respecting the possible neutrality or non-alignment provisions stipulated in the constitutional law of Member States. Historically, the space sector's development has been linked to security. In many cases, the equipment, components and instruments used in the space sector, as well as space data and services, are dual-use. However, the Union's security and defence policy is determined within the framework of the Common Foreign and Security Policy, in accordance with Title V of the Treaty on European Union (TEU).
- (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. The continuity of those initiatives and programmes should be ensured and the services they provide should be improved, so that they meet the new needs of users, remain at the forefront in view of new technology development and the transformations in the digital and information and communications technology domains, and are able to meet political priorities such as climate change, including monitoring changes in the polar region, transport, security and defence.
- (4) It is necessary to exploit synergies between the transport, space and digital sectors in order to foster the broader use of new technologies, such as e-call, digital tachograph, traffic supervision and management, autonomous driving and unmanned vehicles and drones, and to respond to the need of secure and seamless connectivity, robust positioning, inter modality and interoperability. Such exploitation of synergies would enhance the competitiveness of transport services and industry.

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<sup>(1)</sup> Position of the European Parliament of 17 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of 19 April 2021 (not yet published in the Official Journal). Position of the European Parliament of 28 April 2021 (not yet published in the Official Journal).

- (5) To reap the maximum benefits of the Programme, in all Member States and by all their citizens, it is also essential to promote the use and the uptake of the data, information and services provided, as well as to support the development of downstream applications based on those data, information and services. To that end, the Member States, the Commission and the entities responsible could, in particular, periodically run information campaigns regarding the benefits of the Programme.
- (6) To achieve the objectives of freedom of action, independence and security, it is essential that the Union benefits from an autonomous access to space and is able to use it safely. It is therefore essential that the Union supports 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 accordance with Article 189(2) of the Treaty on the Functioning of the European Union (TFEU). To remain competitive in a rapidly evolving market, it is also crucial that the Union continues to have access to modern, efficient and flexible launch infrastructure facilities and benefits from appropriate launch systems. Therefore, without prejudice to measures taken by Member States or the European Space Agency (ESA), it should be possible for the Programme to support adaptations to the space ground infrastructure, including new developments, which are necessary for the implementation of the Programme and adaptations, including technology development, to space launch systems which are necessary for launching satellites, including alternative technologies and innovative systems, for the implementation of the Programme's components. Those activities should be implemented in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(?)</sup> (the 'Financial Regulation'), and with a view to achieving better cost-efficiency for the Programme. Since there will be no dedicated budget, the actions in support of access to space should be without prejudice to the implementation of the Programme's components.
- (7) To strengthen the competitiveness of the Union space industry and increase capacity 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 initiatives such as space hubs that bring together the space, digital and other sectors, as well as users. Those space hubs should aim to foster entrepreneurship and skills while pursuing synergies with the digital innovation hubs. The Union should foster the creation and expansion of Union-based space companies to help them succeed, including by supporting them in accessing risk finance in view of the lack of appropriate access within the Union to private equity for space start-ups and by fostering demand, known as the first contract approach.
- (8) The space value chain is generally segmented between upstream activities and downstream activities. Upstream activities comprise those leading to an operational space system, including development, manufacturing and launch activities and the operations of such a system. Downstream activities comprise those covering the provision of space-related services, and products to users. Digital platforms are also an important element supporting the development of the space sector. They allow access to data and products as well as toolboxes, storage and computing facilities.
- (9) In the area of space, the Union exercises its competences in accordance with Article 4(3) TFEU. The Commission should ensure the coherence of activities performed in the context of the Programme.
- (10) Whilst a number of Member States have a tradition of active space-related industries, the need to develop and mature space industries in Member States with emerging capabilities and the need to respond to the challenges faced by the traditional space industries posed by New Space should be recognised. Actions to develop space industry capacity across the Union and facilitate collaboration across space industry active in all Member States should be promoted.

<sup>(?)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (11) Actions under the Programme should build on and benefit from national and European capacities, which exist at the time the action is being carried out.
- (12) Owing to the Programme's coverage and its potential to help resolve global challenges, space activities have a strong international dimension. In close coordination with the Member States, and with their agreement, the relevant bodies of the Programme might participate in matters pertaining to the Programme, in international cooperation and to collaborate in relevant sectoral bodies of the United Nations (UN). For matters relating to the Programme, the Commission might coordinate, on behalf of the Union and in its field of competence, the activities on the international scene, in particular to defend the interests of the Union and its Member States in international fora, including in the area of frequencies as regards the Programme, without prejudice to Member States' competence in that area. It is particularly important for the Union, represented by the Commission, to collaborate in the bodies of the International Cospas-Sarsat Programme.
- (13) International cooperation is paramount in promoting the role of the Union as a global actor in the space sector and the Union's technology and industry, fostering fair competition at international level, bearing in mind the need to ensure the reciprocity of the rights and obligations of the parties, and to encourage cooperation in the field of training. International cooperation is a key element of the Space Strategy for Europe, as set out by the Commission in its Communication of 26 October 2016. The Commission should use the Programme to contribute to and benefit from international efforts through initiatives, to promote European technology and industry internationally, for example bi-lateral dialogues, industry workshops and support for SME internationalisation, and to facilitate access to international markets and foster fair competition, also leveraging economic diplomacy initiatives. European space diplomacy initiatives should be in full coherence and complementarity with the existing Union policies, priorities and instruments, while the Union has a key role to play, together with Member States, in remaining at the forefront of the international scene.
- (14) Without prejudice to the competence of Member States, the Commission should promote, alongside the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative') and in close coordination with Member States, responsible behaviour in space when implementing the Programme including reducing space debris proliferation. The Commission should also explore the possibility of the Union's acceptance of the rights and obligations provided for in the relevant UN Treaties and Conventions and make, if necessary, appropriate proposals.
- (15) The Programme shares similar objectives with other Union programmes, particularly Horizon Europe established by Regulation (EU) 2021/695 of the European Parliament and of the Council <sup>(3)</sup>, the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council <sup>(4)</sup>, the European Defence Fund established by Regulation (EU) 2021/697 of the European Parliament and of the Council <sup>(5)</sup> and Funds under a Regulation laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (the 'Common Provisions Regulation'). Therefore, cumulative funding from those programmes should be provided for, provided that they do not 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 and financial instruments, which would allow, where possible, use of access to risk finance, innovation partnerships, and cumulative or blended funding. The Commission should also ensure synergies and coherence between the solutions developed under those programmes, particularly Horizon Europe, and the solutions developed under the Programme.

<sup>(3)</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (see page 1 of this Official Journal).

<sup>(4)</sup> Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

<sup>(5)</sup> Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (see page 149 of this Official Journal).

- (16) In accordance with Article 191(3) of the Financial Regulation, in no circumstances are the same costs to be financed twice by the Union budget.
- (17) The policy objectives of the Programme would also be addressed as eligible areas for financing and investment operations through financial instruments and budgetary guarantee of the InvestEU Programme, 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.
- (18) Coherence and synergies between Horizon Europe and the Programme should 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 would be supported by data and services made available by the Programme to the research and innovation community.
- (19) To maximise the socio-economic return from the Programme, it is essential to maintain state-of-the-art systems, to upgrade them to meet evolving users' needs and that new developments occur in the space-enabled downstream applications sector. The Union should support activities relating to research and technology development, or the early phases of evolution relating to the infrastructures established under the Programme, as well as the research and development activities relating to applications and services based on the systems established under the programme, thereby stimulating upstream and downstream economic activities. The appropriate instrument at Union level to finance those research and innovation activities is Horizon Europe. However, a very specific part of development activities should be financed from the budget allocated to the Galileo and EGNOS components under this Regulation, in particular where such activities concern fundamental elements such as Galileo-enabled chipsets and receivers, which would facilitate the development of applications across different sectors of the economy. Such financing should nevertheless not jeopardise the deployment or exploitation of the infrastructures established under the Programme.
- (20) To ensure the competitiveness of the European space industry in the future, the Programme should support the development of advanced skills in space-related fields and support education and training activities, promoting equal opportunities, including gender equality, in order to realise the full potential of Union citizens in that area.
- (21) Infrastructure dedicated to the Programme could require additional research and innovation, which could be supported under Horizon Europe, aiming for coherence with activities in this domain by ESA. Synergies with Horizon Europe should ensure that the 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 would be used to develop breakthrough solutions through research and innovation, including in Horizon Europe, in support of the Union's policy priorities. The strategic planning process under Horizon Europe would identify research and innovation activities that should make use of Union-owned infrastructure such as Galileo, EGNOS and Copernicus. Research infrastructures, in particular in-situ observing networks would constitute essential elements of the in-situ observation infrastructure enabling the Copernicus Services.
- (22) It is important that the Union own all tangible and intangible assets created or developed through public procurement that it finances as part of the 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.
- (23) 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 warranty, without prejudice to obligations imposed by legally binding provisions.

- (24) The Commission, in performing certain of its tasks of a non-regulatory nature, should be able to 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 should also be able to make use of the same technical assistance in performing tasks entrusted to them under this Regulation.
- (25) This Regulation lays down a financial envelope for the entire duration of the Programme, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources <sup>(6)</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (26) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change <sup>(7)</sup>, and the commitment to the UN Sustainable Development Goals, the actions under this Regulation should contribute to mainstream climate actions and to the achievement of an overall target of at least 30 % of the Union budget expenditure supporting climate objectives. Relevant actions should be identified during the Programme's preparation and implementation, and reassessed in the context of the relevant evaluations and review processes. The European Parliament, the Council and the Commission will cooperate on an effective, transparent and comprehensive methodology, to be set out by the Commission, in order to assess the spending under all multiannual financial framework programmes to biodiversity objectives, while considering the existing overlaps between climate and biodiversity objectives.
- (27) Revenue generated by the Programme's components 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 achievement of 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.
- (28) The Financial Regulation applies to the Programme. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.
- (29) As the Programme is, in principle, financed by the Union, procurement contracts concluded under the Programme for activities financed by the 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. The Financial Regulation provides that, on the basis of the results of an ex ante assessment, the Commission is to be able to rely on the systems and the procedures of the persons or entities implementing Union funds. Specific adjustments necessary to those systems and procedures, as well as the arrangements for the prolongation of the existing contracts, should be defined in the corresponding financial framework partnership agreement (FFPA) or contribution agreement.
- (30) The Programme relies on complex and constantly changing technologies. The reliance on such technologies results in uncertainty and risk for public contracts concluded under the 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, particularly in order to enable SMEs and start-ups to participate. Finally, given the technological uncertainties that characterise the Programme's components, 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.

<sup>(6)</sup> OJ L 433 I, 22.12.2020, p. 28.

<sup>(7)</sup> OJ L 282, 19.10.2016, p. 4.

- (31) To foster public demand and public sector innovation, the Programme should promote the use of its data, information and services to support the development of customised solutions by industry and SMEs at regional and local levels through space-related innovation partnerships, as referred to in point 7 of Annex I to the Financial Regulation, allowing all stages, from development up to deployment and procurement of customised interoperable space solutions for public services, to be covered.
- (32) 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 should be made for the possibility of using all the relevant tools and management methods provided for by the TFEU and the Financial Regulation and joint procurement procedures.
- (33) On grants more specifically, experience has shown that user and market uptake and general outreach work better in a decentralised 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 SMEs. However, they have been hindered by the ceiling on financial support imposed by the Financial Regulation. That ceiling should therefore be raised for the Programme in order to keep pace with the growing potential of market applications in the space sector.
- (34) The forms of funding 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.
- (35) Pursuant to Council Decision 2013/755/EU<sup>(8)</sup>, persons and entities established in overseas countries or territories are 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.
- (36) Horizontal financial rules adopted by the European Parliament and by the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (37) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>(9)</sup> and Council Regulations (EC, Euratom) No 2988/95<sup>(10)</sup>, (Euratom, EC) No 2185/96<sup>(11)</sup> and (EU) 2017/1939<sup>(12)</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013 the European Anti-Fraud Office (OLAF) has the power to 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. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal

<sup>(8)</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

<sup>(9)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L 248, 18.9.2013, p. 1).

<sup>(10)</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>(11)</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).

<sup>(12)</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 L 283, 31.10.2017, p. 1).

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>(13)</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (38) Members of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA), acceding countries, candidate countries and potential candidates as well as the European Neighbourhood Policy countries may participate in the Programme, with the exception of Galileo, EGNOS, GOVSATCOM and the SST sub-component, in accordance with their respective agreements. Other third countries may also participate in the Programme, with the exception of Galileo, EGNOS, GOVSATCOM and the SST sub-component, on the basis of an agreement to be concluded in accordance with Article 218 TFEU. Galileo and EGNOS should be open to the participation of the members of EFTA which are members of the EEA, in accordance with the conditions laid down in the Agreement on the European Economic Area<sup>(14)</sup>. Other third countries may participate in Galileo and EGNOS on the basis of an agreement to be concluded in accordance with Article 218 TFEU. GOVSATCOM should be open to any third country only on the basis of an agreement to be concluded in accordance with Article 218 TFEU.
- (39) A specific provision should be introduced in this Regulation requiring third countries to grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.
- (40) International organisations which do not have their headquarters in the Union and which wish to access the SST services which are not publicly available should be required to conclude an agreement in accordance with Article 218 TFEU. International organisations which have their headquarters in the Union and are public spacecraft owners and operators should be considered SST core users.
- (41) Publicly available information for SST services should be understood to mean any information that a user has a reasonable basis for finding lawfully accessible. Collision avoidance, re-entry and fragmentation SST services are based on external publicly accessible SST information which is available after a request for access. Consequently, collision avoidance, re-entry and fragmentation SST services should be understood as being publicly available services and should not require conclusion of an agreement in accordance with Article 218 TFEU. Access to them should be available at the request of the potential user.
- (42) Sound public governance of the Programme requires the clear distribution of responsibilities and tasks among the different entities involved to avoid unnecessary overlap and reduce cost overruns and delays. All the actors of the governance should support, in their field of competence and in accordance with their responsibilities, the achievement of the objectives of the Programme.
- (43) 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 major contribution to the Programme, especially its implementation. They might cooperate with the Union to promote the Programme's services and applications. The Commission might be able to mobilise the means at Member States' disposal, benefit from their assistance and, subject to mutually agreed conditions, entrust the Member States with non-regulatory tasks in the implementation of the Programme. 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

<sup>(13)</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>(14)</sup> OJ L 1, 3.1.1994, p. 3.

frequencies necessary for the Programme are available and protected at the adequate level 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 <sup>(15)</sup>.

- (44) As promoter of the Union's general interest, it is the Commission's responsibility to implement the Programme, assume overall responsibility and promote its use. In order to optimise the resources and competences of the various stakeholders, the Commission should be able to entrust certain tasks to other entities under justifiable circumstances. Having the overall responsibility for the Programme, the Commission should determine the main technical and operational requirements necessary to implement systems and services evolution. It should do so after having consulted Member States' experts, users and other relevant stakeholders. Finally, noting that in the area of space, in accordance with Article 4(3) TFEU, the exercise of competence by the Union does not result in Member States being prevented from exercising theirs, the Commission should ensure the coherence of activities performed in the context of the Programme.
- (45) 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 of the European Parliament and of the Council <sup>(16)</sup>, is to contribute to the Programme, particularly as regards security accreditation as well as market and downstream applications development. Certain tasks linked to those areas 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. Building on its positive track-record in promoting the user and market uptake of Galileo and EGNOS, the Agency should also be entrusted with user-uptake activities relating to the Programme's components other than Galileo and EGNOS, as well as downstream application development activities for all the Programme's components. This would allow the Agency to benefit from economies of scale and provide an opportunity for the development of applications based on several Programme's components (integrated applications). However, those activities should not prejudice the service and the user-uptake activities entrusted by the Commission to Copernicus entrusted entities. The entrustment of downstream applications development to the Agency should not prevent other entrusted entities from developing downstream applications. Furthermore, the Agency should perform the tasks which the Commission confers on it by means of one or more contribution agreements under an FPPA covering other specific tasks associated with the Programme. When entrusting tasks to the Agency, adequate human, administrative and financial resources should be made available.
- (46) In certain duly justified circumstances, the Agency should be able to entrust specific tasks to Member States or groups of Member States. That entrustment should be limited to activities the Agency does not have the capacity to execute itself and should not prejudice the governance of the Programme and the allocation of tasks as defined in this Regulation.
- (47) Galileo and EGNOS are complex systems that require intensive coordination. Since they are the Programme's components, that coordination should be performed by a Union institution or body. Building on the expertise developed in the past years, the Agency is the most appropriate body to coordinate all the operational tasks relating to the exploitation of those systems, except for the international cooperation. The Agency should therefore be entrusted with the management of the exploitation of EGNOS and Galileo. Nevertheless, this does not mean that the Agency should perform alone all the tasks relating to the exploitation of those systems. It could rely on the

<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).

<sup>(16)</sup> Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council (OJ L 276, 20.10.2010, p. 11).



expertise of other entities, in particular ESA. This should include the activities on systems evolution, design and development of parts of the ground segment and satellites which should be entrusted to ESA. The allocation of tasks to other entities builds on the competences of such entities and should avoid duplication of work.

- (48) ESA is an international organisation with extensive expertise in the space domain and which concluded a Framework Agreement with the European Community in 2004 ('2004 Framework Agreement')<sup>(17)</sup>. It is therefore an important partner in the implementation of the Programme, with which appropriate relations should be established. In that regard, and in compliance with the Financial Regulation, the Commission should conclude a FPPA with ESA and the Agency that governs all financial relations between the Commission, the Agency and ESA, ensures their consistency and conforms to the 2004 Framework Agreement, in particular with Articles 2 and 5 thereof. However, as ESA is not a Union body and is not subject to Union law, it is essential that such an agreement provides that ESA takes appropriate measures to ensure the protection of the interests of the Union and its Member States and, as regards budget implementation, that tasks entrusted to it comply with the decisions taken by the Commission. The agreement should also contain all the clauses necessary to safeguard the Union's financial interests.
- (49) The functioning of the European Union Satellite Centre (SATCEN) as a European autonomous capability providing access to information and services resulting from exploitation of relevant space assets and collateral data was already acknowledged in the implementation of Decision No 541/2014/EU of the European Parliament and of the Council<sup>(18)</sup>.
- (50) 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 (Frontex), 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 may have coordinating roles for specific user groups. At an aggregated level the Agency should coordinate user-related aspects for the civilian user communities and may monitor operational use, demand, conformity with requirements and evolving needs and requirements.
- (51) 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.
- (52) Without prejudice to Member States' prerogatives in the area of national security, 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 (CFSP) 2021/698<sup>(19)</sup>.
- (53) Given the specific expertise of the European External Action Service (EEAS) and its regular contact with authorities of third countries and international organisations, the EEAS may assist the Commission in performing certain of its tasks relating to the security of the Programme in the field of external relations, in accordance with Council Decision 2010/427/EU<sup>(20)</sup>.

<sup>(17)</sup> OJ L 261, 6.8.2004, p. 64.

<sup>(18)</sup> 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 (OJ L 158, 27.5.2014, p. 227).

<sup>(19)</sup> Council Decision (CFSP) 2021/698 of 30 April 2021 on the security of systems and services deployed, operated and used under the Union Space Programme which may affect the security of the Union, and repealing Decision 2014/496/CFSP (see page 178 of this Official Journal).

<sup>(20)</sup> Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (2010/427/EU) (OJ L 201, 3.8.2010, p. 30).

- (54) Without prejudice to the sole responsibility of the Member States in the area of national security, as provided for in Article 4(2) TEU, and to the right of the Member States to protect their essential security interests in accordance with Article 346 TFEU, a specific governance of security should be established to ensure a smooth implementation of the Programme. That governance 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 should be segregated from security accreditation functions. Thirdly, the entity in charge of managing all or part of the Programme's components is also the best placed to manage the security of the tasks entrusted to it. The security of the Programme would build upon the experience gained in the implementation of Galileo, EGNOS and Copernicus over the past years. Sound security governance also requires that roles be appropriately distributed among the various players. As it is responsible for the Programme, the Commission, without prejudice to Member States prerogatives in the area of national security, should determine the general security requirements applicable to each of the Programme's components.
- (55) The cybersecurity of European space infrastructures, both ground and space, is key to ensuring the continuity of the operations of the systems and service continuity. The need to protect the systems and their services against cyber-attacks, including by making use of new technologies, should therefore be duly taken into account when establishing security requirements.
- (56) A security monitoring structure should be identified by the Commission when appropriate after the risk and threat analysis. That security monitoring structure should be the entity responding to instructions developed under the scope of Decision (CFSP) 2021/698. For Galileo, that body should be the Galileo Security Monitoring Centre. With regard to the implementation of Decision (CFSP) 2021/698, the role of the Security Accreditation Board should be limited to providing the Council or the High Representative with inputs linked to the security accreditation of the system.
- (57) 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.
- (58) EU classified information (EUCI) is to be handled in accordance with the security rules as set out in Council Decision 2013/488/EU<sup>(21)</sup> and Commission Decision (EU, Euratom) 2015/444<sup>(22)</sup>. In accordance with Decision 2013/488/EU, the Member States are to respect the principles and minimum standards laid down therein, in order to ensure that an equivalent level of protection is afforded to EUCI.
- (59) To ensure the secure exchange of information, appropriate agreements should be established to ensure the protection of EUCI provided to third countries and international organisations in the context of the Programme.
- (60) An important objective of the Programme is to ensure its security and to strengthen strategic autonomy across key technologies and value chains, while preserving an open economy including free and fair trade, and taking advantage of the possibilities that space offers for the security of the Union and its Member States. In specific cases, that objective requires the requisite conditions for eligibility and participation to be set, to ensure the protection of the integrity, security and resilience of the operational systems of the Union. That should not undermine the need

<sup>(21)</sup> Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU) (OJ L 274, 15.10.2013, p. 1).

<sup>(22)</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).

for competitiveness and cost-effectiveness. In the evaluation of legal entities subject to control by a third country or third country entity, the Commission should take into account the principles and criteria provided for in Regulation (EU) 2019/452 of the European Parliament and of the Council <sup>(23)</sup>.

- (61) In the context of the Programme, there is some information which, although not classified, is to be handled in accordance with Union legal acts already in force or with national laws, rules and regulations, including through distribution limitations.
- (62) A growing number of key economic sectors, in particular transport, telecommunications, agriculture and energy, increasingly use satellite navigation and Earth observation systems. The Programme should exploit the synergies between those sectors, taking into consideration the benefits that space technologies bring to those sectors, support the development of compatible equipment and promote the development of relevant standards and certifications. Synergies between space activities and activities linked to the security and defence of the Union and its Member States are also increasing. 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.
- (63) 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 Galileo should be progressively rolled out before 2030, initially with reduced operational capacity.
- (64) The aim of EGNOS is to improve the quality of open signals from existing global navigation satellite systems, in particular those emitted by Galileo. The services provided by EGNOS should cover, as a priority, the Member States' territories geographically located in Europe, including for that purpose Cyprus, the Azores, the Canary Islands and Madeira, by the end of 2026. In the aviation domain, all those territories should benefit from EGNOS for air navigation services for all the performance levels supported by EGNOS. 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 (EU) 2018/1139 of the European Parliament and of the Council <sup>(24)</sup> 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, in all phases of flight, through the necessary augmentation system, including regional, local and on-board avionics, only regional or local augmentation systems such as EGNOS in Europe may constitute air-traffic management (ATM) services and air navigation services (ANS). The EGNOS safety-of-life service should be provided in compliance with applicable standards of the International Civil Aviation Organisation ('ICAO standards').
- (65) It is imperative to ensure the sustainability of the Galileo and EGNOS and the continuity, availability, accuracy, reliability and security of their services. In a changing environment and rapidly developing market, their development should also continue and new generations of those systems, including associated space and ground segment evolution, should be prepared.

<sup>(23)</sup> Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79 I, 21.3.2019, p. 1).

<sup>(24)</sup> Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

- (66) The term ‘commercial service’ used in Regulation (EU) No 1285/2013 of the European Parliament and of the Council <sup>(25)</sup> is no longer suitable in the light of the evolution of that service. Instead, two separate services have been identified in Commission Implementing Decision (EU) 2017/224 <sup>(26)</sup>, namely the high-accuracy service and the authentication service.
- (67) 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, including at user level, 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.
- (68) 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, which could involve the Agency where appropriate based on its field of competence.
- (69) To maximise the socio-economic benefits of Galileo and EGNOS, while contributing to Union’s strategic autonomy, particularly in sensitive sectors and in the area of safety and security, the use of the services provided by EGNOS and Galileo in other Union policies should be promoted also by regulatory means where that is justified and beneficial. Measures to encourage the use of those services in all Member States are also an important part of the process.
- (70) The Programme’s components should stimulate the application of digital technology in space systems, data and service distribution, downstream development. In that context the particular attention should be given to the initiatives and actions proposed by the Commission in its Communications of 14 September 2016 entitled ‘Connectivity for a Competitive Digital Single Market – Towards a European Gigabit Society’ and Communication of 14 September 2016 entitled ‘5G for Europe: An Action Plan’.
- (71) Copernicus should ensure an autonomous access to environmental knowledge and key technologies for Earth observation and geo-information services, thereby supporting the Union to achieve independent decision-making and actions in the fields of, inter alia, the environment, climate change, marine, maritime, agriculture and rural development, preservation of cultural heritage, civil protection, land and infrastructure monitoring, security, as well as the digital economy.
- (72) Copernicus should build on, ensure continuity with and enhance the activities and achievements under Regulation (EU) No 377/2014 of the European Parliament and of the Council <sup>(27)</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 <sup>(28)</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 as outlined by the Commission in its White Paper On Artificial Intelligence of 19 February 2020 entitled ‘A European approach to excellence and trust’ and its Communication of 19 February 2020 entitled ‘A European strategy for data’. For the development of new assets, the Commission should work closely with Member States, ESA, the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) and, where appropriate, other entities owning relevant space and in-situ assets. To the greatest extent possible, Copernicus should make use of capacities for space-based Earth

<sup>(25)</sup> 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 (OJ L 347, 20.12.2013, p. 1).

<sup>(26)</sup> Commission Implementing Decision (EU) 2017/224 of 8 February 2017 setting out the technical and operational specifications allowing the commercial service offered by the system established under the Galileo programme to fulfil the function referred to in Article 2(4)(c) of Regulation (EU) No 1285/2013 of the European Parliament and of the Council (OJ L 34, 9.2.2017, p. 36).

<sup>(27)</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>(28)</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).

observations of the Member States, ESA, EUMETSAT, as well as other entities, including commercial initiatives in the Union, thereby also contributing to the development of a viable commercial space sector in Europe. Where feasible and appropriate, Copernicus should also make use of the available in-situ and ancillary data provided mainly by the Member States in accordance with Directive 2007/2/EC of the European Parliament and of the Council <sup>(29)</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.

- (73) Copernicus should be implemented in accordance with the objectives of Directive 2003/98/EC of the European Parliament and of the Council <sup>(30)</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.
- (74) The full potential of Copernicus for the Union's society and economy should be fully unleashed beyond direct beneficiaries by means of an intensification of user uptake measures, which requires further action to render the data usable by non-specialists and thereby stimulate growth, job creation and knowledge transfers.
- (75) 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, whether 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.
- (76) 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 user needs, market environment, particularly the emergence of private actors in space and socio-political developments for which a rapid response is needed. That requires an evolution 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 that 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, market uptake and capacity building activities, while the strategic planning process under Horizon Europe would identify research and innovation activities that should make use of Copernicus.
- (77) 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 in particular new observation systems to support meeting the challenge of global climate change, such as 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 in agriculture, forest, water and marine resources management and cultural heritage, such as 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), including those made by Member States, ESA and EUMETSAT, while exploring new operational and business models to further complement the Copernicus capacities. Copernicus might 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.

<sup>(29)</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) (OJ L 108, 25.4.2007, p. 1).

<sup>(30)</sup> Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

- (78) As part of the data and information processing function, Copernicus should ensure the long-term sustainability and further development of Copernicus Services, providing information in order to satisfy public sector needs and those arising from the Union's international commitments, and to maximise opportunities for commercial exploitation. In particular, Copernicus should deliver, at the European, national, local and global scale, information on the composition of the atmosphere and air quality; information on the state and dynamics of the oceans; information in support of land and ice monitoring supporting the implementation of Union, national and local 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.
- (79) In the implementation of the Copernicus Services, the Commission should rely on competent entities, relevant Union agencies, groupings or consortia of national bodies, or any relevant body potentially eligible for conclusion of a contribution agreement. In the selection of those entities, the Commission should ensure that there is no disruption in the operations and provision of services and that, as regards security-sensitive data, the entities concerned have early warning and crisis monitoring capabilities within the context of the Common Foreign and Security Policy and, in particular, of the Common Security and Defence Policy. In accordance with Article 154(2) of the Financial Regulation, persons and entities entrusted with the implementation of Union funds are obliged to comply with the principle of non-discrimination towards all Member States. Compliance with that principle should be ensured through the relevant contribution agreements relating to the provision of the Copernicus Services.
- (80) 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 that end, the Commission and its entrusted entities providing services should engage closely with Copernicus core users' 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 Copernicus in-situ data with space datasets for upgraded Copernicus Services.
- (81) Copernicus' free, full and open data policy has been evaluated as one of the most successful elements of Copernicus' implementation and has been instrumental in driving strong demand for its data and information, establishing Copernicus as one of the largest Earth observation data providers in the world. There is a clear need to guarantee the long-term and secure continuity of the free, full and open data provision and access should be safeguarded in order to realise the ambitious goals as set out in the Space Strategy for Europe. Copernicus data is created primarily for the benefit of the Europeans, and by making that data freely available worldwide collaboration opportunities are maximised for Union businesses and academics and contribute to an effective European space ecosystem. Should any limitation be placed on the access to Copernicus data and Copernicus information, it should be in line with the Copernicus data policy as laid down in this Regulation and in Commission Delegated Regulation (EU) No 1159/2013<sup>(31)</sup>.
- (82) 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 Copernicus information, at various timeliness levels, for which the Commission should continue to follow an integrated approach, both at Union and Member States level, enabling also integration with other sources of data and information. Therefore the Commission should take the

<sup>(31)</sup> Commission Delegated Regulation (EU) No 1159/2013 of 12 July 2013 supplementing Regulation (EU) No 911/2010 of the European Parliament and of the Council on the European Earth monitoring programme (GMES) by establishing registration and licensing conditions for GMES users and defining criteria for restricting access to GMES dedicated data and GMES service information (OJ L 309, 19.11.2013, p. 1).

necessary measures to ensure that Copernicus data and Copernicus information is easily and efficiently accessible and usable, particularly by promoting the Data and Information Access Services (DIAS) within Member States and when possible fostering interoperability between the existing European Earth observation data infrastructures to establish synergies with those assets in order to maximise and strengthen market uptake of Copernicus data and Copernicus information.

- (83) 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 Member States, in duly justified cases, measures in order to deal with risks and threats to the security of the Union or Member States may be adopted.
- (84) To promote and facilitate the use of Earth observation data and technologies by national, regional and local authorities, SMEs, scientists and researchers, dedicated networks for Copernicus data distribution, including national and regional bodies such as Copernicus Relays and Copernicus Academies, should be promoted through user uptake activities. To that 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, in particular SMEs and start-ups, to develop applications based on Copernicus data and Copernicus information aiming at developing a competitive Earth observation data eco-system in Europe.
- (85) 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, the Committee on Earth Observation Satellites, the Conference of the Parties to the 1992 United Nations Framework Convention on Climate Change, the achievement of the UN Sustainable Development Goals and the Sendai Framework for Disaster Risk Reduction. The Commission should establish or maintain appropriate cooperation with relevant sectoral UN bodies and the World Meteorological Organisation.
- (86) In the implementation of Copernicus, the Commission should rely, where appropriate, on European international organisations with which it has already established partnerships, in particular ESA, for the development, coordination, implementation and evolution of the space components, access to third party data where appropriate and, when not undertaken by other entities, the operation of dedicated missions. In addition, the Commission should rely on EUMETSAT for the operation of dedicated missions or parts thereof and, where appropriate, access to contributing mission data in accordance with its expertise and mandate.
- (87) In the domain of services, the Commission should benefit appropriately from the specific capacities provided by Union agencies, such as the European Environment Agency, the European Maritime Safety Agency, Frontex, SATCEN, as well as the intergovernmental European Centre for Medium-Range Weather Forecasts and the European investments already made in marine environment monitoring services through Mercator Ocean. On security, a comprehensive approach at Union level would 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 the SWE sub-component. 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 data 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.
- (88) Following the requests of the European Parliament and of the Council, the Union established a support framework for space surveillance and tracking (SST) by means of Decision No 541/2014/EU. Space debris has become a serious threat to the security, safety and sustainability of space activities. The SST sub-component is therefore essential to preserving the continuity of the Programme's components and their contributions to Union policies. By

seeking to prevent the proliferation of space debris, the SST sub-component contributes to ensuring the sustainable and guaranteed access to and use of space, which is a global common objective. In that context, it could support the preparation of European Earth orbit 'clean-up' projects.

- (89) The performance and autonomy of capabilities under the SST sub-component should be further developed. To that end, the SST sub-component should lead to the establishment of an autonomous European catalogue of space objects, building on data from the network of SST sensors. Where appropriate, the Union could consider making some of its data available for commercial, non-commercial and research purposes. The SST sub-component should also continue to support the operation and provision of SST services. As SST services are user-driven, appropriate mechanisms should be put in place to collect user requirements, including those relating to security and the transmission of relevant information to and from public institutions to improve the effectiveness of the system, while respecting national safety and security policies.
- (90) The provision of SST services should be based on 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 ESA or by the Union. It should be possible to provide financial support for the development of new SST sensors. In view of 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 Member States participating in the SST sub-component.
- (91) Member States with ownership or access to adequate capabilities available for the SST sub-component should be able to participate in the provision of SST services. Participating Member States in the Consortium established under Decision No 541/2014/EU should be deemed to have ownership or access to adequate capabilities available for the SST sub-component. Member States wishing to participate in the provision of SST services should submit a single joint proposal and demonstrate compliance with further elements related to the operational set up. Appropriate rules should be established for the selection and organisation of those Member States.
- (92) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to adoption of the detailed procedures and elements for establishing the participation of Member States in the provision of SST services. Where no joint proposal of the Member States wishing to participate in the provision of SST services has been submitted or where the Commission considers that such proposal does not comply with the criteria set, the Commission should be able to initiate a second step for establishing the participation of Member States in the provision of SST services. The procedures and elements for that second step should define the orbits to be covered, and take into account the need to maximise the participation of Member States in the provision of SST services. Where those procedures and elements provide for the possibility for the Commission to select several proposals to cover all the orbits, appropriate coordination mechanisms between the groups of Member States and an efficient solution to cover all the SST services should also be provided. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(32)</sup>.
- (93) Once the SST sub-component 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. The SST sub-component should therefore avoid unnecessary duplication. Redundant capabilities should ensure SST services' continuity, quality and robustness. The activities of the Expert Teams should help to avoid such unnecessary duplication.
- (94) In addition, the SST sub-component should be conducive to existing mitigation measures, such as the COPUOS Space Debris Mitigation Guidelines 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 sub-component would also seek synergies with initiatives of active removal and

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<sup>(32)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).



passivation measures of space debris. The SST sub-component 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 multiannual financial framework.

- (95) The activities under the SST, SWE and NEO sub-components should have regard to cooperation with international partners, in particular the United States, international organisations and other third parties, particularly to avoid collisions in space, to prevent the proliferation of space debris and to increase preparedness for the effects of extreme space weather events and near-Earth objects.
- (96) 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 Member States participating in the SST sub-component.
- (97) Extreme and major space weather events may threaten the safety of citizens and disrupt the operations of space-based and ground-based infrastructure. A SWE sub-component should therefore be established as part the Programme with an aim of assessing the space weather risks and corresponding user needs, raising the awareness of space weather risks, ensuring the provision of user-driven SWE services, and improving Member States' capabilities to provide the SWE services. The Commission should prioritise the sectors to which the operational SWE 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 provision of services at Union level according to the users' needs would require targeted, coordinated and continued research and development activities to support SWE services evolution. The provision of the SWE services should build on the existing national and Union capabilities and enable a broad participation of Member States, European and international organisations, and involvement of the private sector.
- (98) The Commission White Paper of 1 March 2017 on the future of Europe, the Rome Declaration of the Heads of State and Government of 27 EU Member States of 25 March 2017, and several European Parliament resolutions, recall that the Union has a major role to play in ensuring a safe, secure and resilient Europe that is capable of addressing 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 that key security resource at Union level strengthens a Union that protects its citizens.
- (99) The conclusions of the European Council of 19-20 December 2013 welcomed the preparations for the next generation of Governmental Satellite Communication (GOVSATCOM) through close cooperation between the Member States, the Commission and ESA. 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 and provide support to the EU Maritime Security Strategy and to the EU Arctic policy.
- (100) GOVSATCOM is a user-centric programme with a strong security dimension. The GOVSATCOM use-cases should be able to be analysed by the relevant actors 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 and surveillance of illegal trafficking; and key infrastructures, which may include diplomatic network, police communications, digital infrastructure, such as data centres and servers, critical infrastructures, such as energy, transport and water barriers, such as dams, and space infrastructures.

- (101) GOVSATCOM capacity and services should be used in security and safety critical missions and operations by Union and Member State actors. Therefore an appropriate level of non-dependence from third parties (third countries and entities from third countries) is needed, covering all GOVSATCOM elements, such as space and ground technologies at component, subsystem and system level, manufacturing industries, owners and operators of space systems, and physical location of ground system components.
- (102) Satellite communications is a finite resource limited by the satellite capacity, frequency and geographical coverage. Therefore, in order to be cost-effective and to capitalise on economies of scale, GOVSATCOM needs to optimise the match between the demand from GOVSATCOM users, and the supply provided under contracts for GOVSATCOM capacities and services. Since the demand and the potential supply both change with time, this requires constant monitoring and flexibility to adjust GOVSATCOM services.
- (103) Operational requirements should be based on the use-case analysis. From those operational requirements, in combination with security requirements, the service portfolio should be developed. The service portfolio should establish the applicable baseline for the GOVSATCOM services. In order to maintain the best possible match between the demand and supplied services, the service portfolio for GOVSATCOM services should be able to be regularly updated.
- (104) In the first phase of GOVSATCOM, approximately until 2025, existing capacity would be used. In that context, the Commission should procure GOVSATCOM capacities from Member States with national systems and space capacities and from commercial satellite communication or service providers, taking into account the essential security interests of the Union. In that first phase GOVSATCOM services would be introduced in a stepped approach. 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, it should be possible to take a decision to move to a second phase and develop additional bespoke space infrastructure or capacities through one or several public-private partnerships, e.g. with Union satellite operators.
- (105) 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, the necessary ground segment, such as GOVSATCOM Hubs and potential other ground elements, is required. It should be designed on the basis of operational and security requirements. In order to mitigate risks a GOVSATCOM Hub may consist of several physical sites. Other ground segment elements, such as anchoring stations, may be needed.
- (106) For users of satellite communications the user equipment is the all-important operational interface. The GOVSATCOM approach should make it possible for most users to continue to use their existing user equipment for GOVSATCOM services.
- (107) 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.
- (108) At implementation level the tasks and responsibilities should be distributed amongst specialised entities, such as EDA, EEAS, ESA, the Agency, and other Union agencies in such a manner as to ensure that they align with their principal role, especially for user-related aspects.
- (109) The competent GOVSATCOM authority has an important role in terms of monitoring whether 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.
- (110) Member States, the Council, the Commission and the EEAS should be able to become GOVSATCOM participants, insofar as they choose to authorise GOVSATCOM users or provide capacities, sites or facilities. Taking into consideration that it is for the Member States to decide whether to authorise GOVSATCOM users or provide capacities, sites or facilities, Member States could not be obliged to become GOVSATCOM participants or to host

GOVSATCOM infrastructure. The GOVSATCOM component would therefore be without prejudice to the right of Member States not to participate in GOVSATCOM, including in accordance with its national law or constitutional requirements in relation to policies concerning non-alignment and non-participation in military alliances.

- (111) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to adoption of the operational requirements for GOVSATCOM services and of the service portfolio for GOVSATCOM services. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (112) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to adoption of detailed rules on sharing and prioritisation for the use of pooled GOVSATCOM satellite communication capacities. When defining detailed rules on sharing and prioritisation, the Commission should take into account the operational and security requirements and an analysis of risks and expected demand by GOVSATCOM participants. Although GOVSATCOM services should in principle be provided free of charge to GOVSATCOM users, if that analysis concludes there is a shortage of capacities and in order to avoid a distortion of the market, a pricing policy might be developed as part of those detailed rules on sharing and prioritisation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (113) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers relating to the location of the ground segment infrastructure for GOVSATCOM should be conferred on the Commission. For the selection of such locations, the Commission should be able to take into account the operational and security requirements, as well as the existing infrastructure. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (114) 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. This Regulation entrusts the European GNSS Agency with new tasks, especially security accreditation, not only in respect of Galileo and EGNOS but also in respect of other Programme's components. The name, tasks and organisational aspects of the European GNSS Agency should therefore be adapted accordingly.
- (115) In accordance with Decision 2010/803/EU <sup>(33)</sup>, the seat of the Agency is located in Prague. For the implementation of the Agency's tasks, staff of the Agency might be located in one of the Galileo or EGNOS ground-based centres referred to in Commission Implementing Decision (EU) 2016/413 <sup>(34)</sup> to execute Programme activities provided for in the relevant agreement. In addition, for the Agency to operate in the most efficient and effective manner, a limited number of staff could be assigned to local offices in one or more Member States. Such assignment of staff outside the seat of the Agency or Galileo and EGNOS ground-based centres should not lead to transfer of the Agency's core activities to such local offices.
- (116) In view of its extended scope, which should no longer be limited to Galileo and EGNOS, the name of 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.
- (117) 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.

<sup>(33)</sup> Decision taken by common accord between the Representatives of the Governments of the Member States of 10 December 2010 on the location of the seat of the European GNSS Agency (2010/803/EU) (OJ L 342, 28.12.2010, p. 15).

<sup>(34)</sup> Commission Implementing Decision (EU) 2016/413 of 18 March 2016 determining the location of the ground-based infrastructure of the system established under the Galileo programme and setting out the necessary measures to ensure that it functions smoothly, and repealing Implementing Decision 2012/117/EU (OJ L 74, 19.3.2016, p. 45).

- (118) Without prejudice to the powers of the Commission, the Administrative Board, the Security Accreditation Board and the Executive Director should be independent in the performance of their duties and should act in the public interest.
- (119) It is possible, and indeed probable, that some of the Programme's components would be based on the use of sensitive or security-related national infrastructure. In such cases, for reasons of national security, it would be necessary to stipulate that meetings of the Administrative Board and Security Accreditation Board be attended by the representatives of the Member States and the representatives of the Commission, on a need-to-know basis. In the Administrative Board, only those representatives of Member States which possess such infrastructure and a representative of the Commission are to take part in voting. The rules of procedure of the Administrative Board and of the Security Accreditation Board should set out the situations in which that procedure is to apply.
- (120) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(35)</sup>, this Programme should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Programme on the ground.
- (121) The use of Copernicus and Galileo-based services is predicted to have a major impact in the European economy in general. However, ad hoc measurements and case studies seem to dominate the picture today. The Commission (Eurostat) should define relevant statistical measurements and indicators that would form the basis for monitoring the impact of the Union's space activities in a systematic and authoritative way.
- (122) The European Parliament and the Council should be promptly informed of the work programmes.
- (123) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to the reallocation of funds between the categories of expenditure of the Programme's budget, the adoption of contribution decisions regarding the contribution agreements, determining the technical and operational requirements needed for the implementation of and evolution of the Programme's components and of the services they provide, deciding on the FFPA, the adoption of measures necessary for the smooth functioning of Galileo and EGNOS and their adoption by the market, the adoption of the detailed provisions concerning the access to SST services and relevant procedures, the adoption of the multiannual plan and the key performance indicators for development of Union SST services, the adoption of detailed rules on the functioning of the organisational framework of the participation of Member States in the SST sub-component, the selection of SWE services, and the adoption of the work programmes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. The Commission should be assisted by the Programme committee, which should meet in specific configuration.
- (124) Since the Programme's components are user-driven, they require the continuous, effective involvement of users for their implementation and development, particularly regarding the definition and validation of service requirements. In order to increase the value for the users, their input should be actively sought through regular consultation with end-users from the public and private sectors of Member States and, where appropriate, with international organisations. For that purpose, a working group ('User Forum') should be set up to assist the Programme committee with the identification of user requirements, and the verification of service compliance, as well as the identification of gaps in services provided. The rules of procedure of the Programme committee should establish the organisation of the User Forum to take into account the specificities of each of the Programme's components and each service within the components. Whenever possible, Member States should contribute to the User Forum based on a systematic and coordinated consultation of users at national level.

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<sup>(35)</sup> OJ L 123, 12.5.2016, p. 1.

- (125) 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 the Programme might be able to take part as observers in the work of the Programme 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, relating to the Programme or its components or sub-components, might be able to take part in the work of the Programme 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 should not be entitled to take part in the Programme committee voting procedures. The conditions for the participation of observers and ad hoc participants should be laid down in the rules of procedure of the Programme committee.
- (126) 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 TFEU should be delegated to the Commission in respect of supplementing the provisions on the Copernicus data and Copernicus information to be provided to Copernicus users as regards the specifications and conditions and procedures for the access to and use of such data and such information, of amending the Annex to this Regulation with regard to the indicators where considered necessary and of supplementing 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 of 13 April 2016 on Better Law-Making. 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.
- (127) Since the objective of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the action that go beyond the financial and technical capacities of any single Member State, be better achieved 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.
- (128) In order to ensure uniform conditions for the implementation of the Programme's security requirements, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. Member States should be able to exert a maximum of control over the Programme's security requirements. When adopting implementing acts in the area of security of the Programme, the Commission should be assisted by the Programme committee meeting in a dedicated security configuration. In view of the sensitivity of security matters, the chair of the Programme committee should endeavour to find solutions which command the widest possible support within the committee. The Commission should not adopt implementing acts determining the general security requirements of the Programme in cases where no opinion is delivered by the Programme committee.
- (129) The Programme should be established for a period of seven years to align its duration with that of the multiannual financial framework for the years 2021 to 2027 laid down in Council Regulation (EU, Euratom) 2020/2093 <sup>(36)</sup> (the 'MFF 2021-2027'). The Agency, which carries out its own tasks, should not be subject to that time limitation.
- (130) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the MFF 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021.
- (131) Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU should therefore be repealed,

<sup>(36)</sup> Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

HAVE ADOPTED THIS REGULATION:

## TITLE I

### GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter**

This Regulation establishes the Union Space Programme ('the Programme') for the duration of the MFF 2021-2027. 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.

This Regulation establishes 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 and lays down the rules of operation of the Agency.

#### *Article 2*

##### **Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'spacecraft' means an orbiting object designed to perform a specific function or mission, such as communications, navigation or Earth observation, including satellites, launcher upper stages, and a re-entry vehicle; a spacecraft that can no longer fulfil its intended mission is considered non-functional; spacecraft in reserve or standby modes awaiting possible reactivation are considered functional;
- (2) 'space object' means any man-made object in outer space;
- (3) 'near-Earth objects' or 'NEO' means natural objects in the solar system which are approaching the Earth;
- (4) '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;
- (5) 'space weather events' or 'SWE' means naturally occurring variations in the space environment at the Sun and around the Earth, including solar flares, solar energetic particles, variations in the solar wind, coronal mass ejections, geomagnetic storms and dynamics, radiation storms and ionospheric disturbances, potentially impacting Earth and space-based infrastructures;
- (6) 'space situational awareness' or 'SSA' means a holistic approach, including comprehensive knowledge and understanding, of the main space hazards, encompassing collision between space objects, fragmentation and re-entry of space objects into the atmosphere, space weather events, and near-Earth objects;
- (7) 'space surveillance and tracking system' or 'SST system' means a network of ground-based and space-based sensors capable of surveying and tracking space objects, together with processing capabilities aiming to provide data, information and services on space objects that orbit around the Earth;
- (8) 'SST sensor' means a device or a combination of devices, such as ground-based or space-based radars, lasers and telescopes, which is able to perform space surveillance or tracking and that can measure physical parameters related to space objects, such as size, location and velocity;
- (9) 'SST data' means physical parameters of space objects, including space debris, acquired by SST sensors, or orbital parameters of space objects derived from SST sensors' observations in the framework of the SST sub-component;

- (10) 'SST information' means processed SST data which are readily meaningful to the recipient;
- (11) 'return link' means a functional capacity of the Galileo search and rescue support (SAR) service; the Galileo SAR service will contribute to the global monitoring service of aircraft, as defined by the International Civil Aviation Organisation (ICAO);
- (12) 'Copernicus Sentinels' means the Copernicus dedicated satellites, spacecraft or spacecraft payloads for space-based Earth observation;
- (13) 'Copernicus data' means data provided by the Copernicus Sentinels, including their metadata;
- (14) 'Copernicus third-party data and information' means spatial data and information licensed or made available for use under Copernicus which originate from sources other than the Copernicus Sentinels;
- (15) 'Copernicus in-situ data' means observation data from ground-based, 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) 'Copernicus Participating States' means third countries which contribute financially and participate in Copernicus under the terms of an international agreement concluded with the Union;
- (18) 'Copernicus core users' means the Union institutions and bodies and European, national, or regional public bodies in the Union or Copernicus Participating States entrusted with a public service mission for the definition, implementation, enforcement or monitoring of civilian public policies, such as environmental, civil protection, safety, including safety of infrastructure, or security policies, which benefit from Copernicus data and Copernicus information and have the additional role of driving the evolution of Copernicus;
- (19) 'other Copernicus users' means research and education organisations, commercial and private bodies, charities, non-governmental organisations and international organisations, which benefit from Copernicus data and Copernicus information;
- (20) 'Copernicus users' means Copernicus core users and other Copernicus users;
- (21) 'Copernicus Services' means value-added services of general and common interest to the Union and the Member States, which are financed by the Programme and which transform Earth observation data, Copernicus in-situ data and other ancillary data into processed, aggregated and interpreted information tailored to the needs of Copernicus users;
- (22) 'GOVSATCOM user' means a public authority, a body entrusted with the exercise of public authority, an international organisation 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;
- (23) 'GOVSATCOM Hub' means an operational centre the main function of which is to link, in a secure manner, the GOVSATCOM users to the providers of GOVSATCOM capacity and services and thereby optimise the supply and demand at any given moment;
- (24) 'GOVSATCOM use-case' means an operational scenario in a particular environment in which GOVSATCOM services are required;
- (25) 'EU classified information' or 'EUCI' means any information or material designated by an EU security classification, the unauthorised disclosure of which could cause varying degrees of prejudice to the interests of the Union or of one or more of the Member States;
- (26) 'sensitive non-classified information' means non-classified information within the meaning of Article 9 of Commission Decision (EU, Euratom) 2015/443 <sup>(37)</sup>, under which an obligation to protect sensitive non-classified information applies solely to the Commission and to Union agencies and bodies obliged by law to apply the security rules of the Commission;

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<sup>(37)</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission (OJ L 72, 17.3.2015, p. 41).

- (27) 'blending operation' means actions supported by the Union budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support or financial instruments or budgetary guarantees from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (28) 'legal entity' means a natural person, or a legal person created and recognised as such under Union, national, or international law, which has legal personality and capacity to act in its own name, exercise rights and be subject to obligations, or an entity which does not have legal personality as referred to in point (c) of Article 197(2) of the Financial Regulation;
- (29) '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 those data.

### Article 3

#### Components of the Programme

1. The Programme shall consist of the following components:
  - (a) 'Galileo', an autonomous civil global navigation satellite system (GNSS) under civil control, which consists of a constellation of satellites, centres and a global network of stations on the ground, offering positioning, navigation and timing services and integrating the needs and requirements of security;
  - (b) 'European Geostationary Navigation Overlay Service' (EGNOS), a civil regional satellite navigation system under civil control 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, for air navigation services and for other transport systems;
  - (c) 'Copernicus', an operational, autonomous, user-driven, civil Earth observation system under civil control, building on the existing national and European capacities, offering geo-information data and services, comprising satellites, ground infrastructure, data and information processing facilities, and distribution infrastructure, based on a free, full and open data policy and, where appropriate, integrating the needs and requirements of security;
  - (d) 'Space Situational Awareness' or 'SSA', which includes the following sub-components:
    - (i) 'SST sub-component', a space surveillance and tracking system aiming to improve, operate and provide data, information and services related to the surveillance and tracking of space objects that orbit the Earth;
    - (ii) 'SWE sub-component', observational parameters related to space weather events; and
    - (iii) 'NEO sub-component', the risk monitoring of near-Earth objects approaching the Earth;
  - (e) 'GOVSATCOM', a satellite communications service under civil and governmental control enabling the provision of satellite communications capacities and services to Union and Member State authorities managing security critical missions and infrastructures.
2. The Programme shall include additional measures to ensure efficient and autonomous access to space for the Programme and to foster an innovative and competitive European space sector, upstream and downstream, to strengthen the Union's space ecosystem and to reinforce the Union as a global player.

### Article 4

#### Objectives

1. The general objectives of the Programme are to:
  - (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 support the Union's political priorities and related evidence-based and independent decision making, inter alia for climate change, transport and security;



- (b) maximise the socio-economic benefits, in particular by fostering the development of innovative and competitive European upstream and downstream sectors, including SMEs and start-ups, thereby enabling growth and job creation in the Union and promoting the widest possible uptake and use of the data, information and services provided by the Programme's components both within and outside the Union; while ensuring synergies and complementarity with the Union's research and technological development activities carried out under Regulation (EU) 2021/695;
- (c) enhance the safety and security of the Union and its Member States and reinforce the autonomy of the Union, in particular in terms of technology;
- (d) promote the role of the Union as a global actor in the space sector; encourage international cooperation, reinforce European space diplomacy including by fostering the principles of reciprocity and fair competition, and to strengthen its role in tackling global challenges, supporting global initiatives including with regard to sustainable development and raising awareness of space as a common heritage of humankind;
- (e) enhance the safety, security and sustainability of all outer space activities pertaining to space objects and debris proliferation, as well as space environment, by implementing appropriate measures, including development and deployment of technologies for spacecraft disposal at the end of operational lifetime and for space debris disposal.

2. The specific objectives of the Programme are:

- (a) for Galileo and EGNOS: to provide long-term, state-of-the-art and secure positioning, navigation and timing services whilst ensuring service continuity and robustness;
- (b) for Copernicus: to deliver accurate and reliable Earth observation data, information and services integrating other data sources, supplied on a long-term sustainable basis, to support the formulation, implementation and monitoring of the Union and its Member States' policies and actions based on user requirements;
- (c) for SSA: to enhance capabilities to monitor, track and identify space objects and space debris with the aim of further increasing the performance and autonomy of capabilities under the SST sub-component at Union level, to provide SWE services and to map and network Member States' capacities under the NEO sub-component;
- (d) for GOVSATCOM: to ensure the long-term availability of reliable, secure and cost-effective satellite communications services for GOVSATCOM users;
- (e) to support an autonomous, secure and cost-efficient capability to access space, taking into account the essential security interests of the Union;
- (f) to foster the development of a strong Union space economy, including by supporting the space ecosystem and by reinforcing competitiveness, innovation, entrepreneurship, skills and capacity building in all Member States and Union regions, with particular regard to SMEs and start-ups or natural and legal persons from the Union who are active or wishing to become active in that sector.

#### *Article 5*

#### **Access to space**

1. The Programme shall support the procurement and aggregation of launching services for the needs of the Programme and, at their request, the aggregation for Member States and international organisations.
2. In synergies with other Union programmes and funding schemes, and without prejudice to ESA's activities in the area of access to space, the Programme may support:
  - (a) adaptations, including technology development, to space launch systems which are necessary for launching satellites, including alternative technologies and innovative systems on access to space, for the implementation of the Programme's components;
  - (b) adaptations to the space ground infrastructure, including new developments, which are necessary for the implementation of the Programme.

*Article 6***Actions in support of an innovative and competitive Union space sector**

1. The Programme shall promote capacity building across the Union, by supporting:
  - (a) innovation activities for making best use of space technologies, infrastructure or services and measures to facilitate the uptake of innovative solutions resulting from research and innovation activities and to support the development of the downstream sector, in particular through synergies with other Union programmes and financial instruments, including the InvestEU Programme;
  - (b) activities aiming to foster public demand and public sector innovation, to realise the full potential of public services for citizens and businesses;
  - (c) entrepreneurship, including from early stage to scaling-up, in accordance with Article 21, by relying on other provisions on access to finance as referred to in Article 18 and Chapter I of Title III, and by using a first contract approach;
  - (d) the emergence of a business-friendly space ecosystem through cooperation amongst undertakings in the form of a network of space hubs which:
    - (i) bring together, at national and regional levels, actors from the space, digital and other sectors, as well as users; and
    - (ii) aim to provide support, facilities and services to citizens and companies to foster entrepreneurship and skills, to enhance synergies in the downstream sector and to foster cooperation with the digital innovation hubs established under the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council <sup>(38)</sup>;
  - (e) the provision of education and training activities, in particular for professionals, entrepreneurs, graduates and students, notably through synergies with initiatives at national and regional levels, for the development of advanced skills;
  - (f) access to processing and testing facilities for private and public sector professionals, students and entrepreneurs;
  - (g) certification and standardisation activities;
  - (h) the reinforcement of European supply chains across the Union through wide participation of enterprises, in particular SMEs and start-ups, in all the Programme's components, particularly through Article 14, and of measures to underpin their competitiveness at global level.
2. When implementing activities referred to in paragraph 1, the need to develop capacity in Member States with an emerging space industry shall be supported, in order to provide an equal opportunity to all Member States to participate in the Programme.

*Article 7***Participation of third countries and international organisations in the Programme**

1. Galileo, EGNOS and Copernicus, as well as the SWE and NEO sub-components, but excluding the SST sub-component, shall be open to the participation of the members of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the Agreement on the European Economic Area.

Copernicus and the SWE and NEO sub-components, but excluding the SST sub-component, shall be open to the participation of the following third countries:

- (a) acceding countries, candidate countries and potential candidates, 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 in similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

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<sup>(38)</sup> Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p.1).

(b) European Neighbourhood Policy countries, 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 in similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries.

2. In accordance with the conditions laid down in a specific agreement concluded in accordance with Article 218 TFEU covering the participation of a third country or of an international organisation to any Union programme:

- (a) Galileo and EGNOS shall be open to the participation of third countries referred to in points (a) and (b) of the second subparagraph of paragraph 1;
- (b) GOVSATCOM shall be open to the participation of members of EFTA which are members of the EEA, as well as of third countries referred to in points (a) and (b) of the second subparagraph of paragraph 1; and
- (c) Galileo, EGNOS, Copernicus, GOVSATCOM, as well as the SWE and NEO sub-components, but excluding the SST sub-component, shall be open to the participation of third countries, other than those third countries covered by paragraph 1, and international organisations.

The specific agreement referred to in the first subparagraph of this paragraph shall:

- (a) ensure a fair balance as regards the contributions and benefits of the third country or international organisation participating in the Union programmes;
- (b) lay down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes, and their administrative costs;
- (c) not confer on the third country or international organisation any decision-making power in respect of the Union programme;
- (d) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests.

The contributions referred to in point (b) of the second subparagraph of this paragraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.

3. The Programme's components or sub-components, excluding the SST sub-component, shall only be open to the participation of third countries and international organisations under this Article provided that the essential security interests of the Union and its Member States are preserved, including as regards the protection of classified information under Article 43.

#### *Article 8*

#### **Access to SST services, GOVSATCOM services and the Galileo Public Regulated Service by third countries and international organisations**

1. Third countries and international organisations may have access to GOVSATCOM services provided that:

- (a) they conclude an agreement, in accordance with Article 218 TFEU, laying down the terms and conditions for access to GOVSATCOM services; and
- (b) they comply with Article 43 of this Regulation.

2. Third countries and international organisations not having their headquarters in the Union may have access to SST services referred to in point (d) of Article 55(1) provided that:

- (a) they conclude an agreement, in accordance with Article 218 TFEU, laying down the terms and conditions for access to such SST services; and
- (b) they comply with Article 43 of this Regulation.

3. No agreement concluded in accordance with Article 218 TFEU shall be required to access SST services which are publicly available, as referred to in points (a), (b) and (c) of Article 55(1). Access to those services shall be subject to a request from the potential users in accordance with Article 56.

4. The access of third countries and international organisations to the Public Regulated Service (PRS) 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>(39)</sup>.

#### Article 9

#### Ownership and use of assets

1. Except as provided under paragraph 2, the Union shall be the owner of all tangible and intangible assets created or developed under the Programme's components. To that effect, the Commission shall ensure that relevant contracts, agreements and other arrangements relating to the activities which may result in the creation or development of such assets contain provisions ensuring the Union's ownership of those assets.

2. Paragraph 1 does 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 ensure that the contracts, agreements and other arrangements relating to the activities referred to in paragraph 2 of this Article contain provisions setting out the appropriate ownership regime for those assets and, as regards point (c) of paragraph 2 of this Article, that they ensure that the Union can use the PRS receivers in accordance with Decision No 1104/2011/EU.

4. The Commission shall seek to conclude contracts, agreements 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 and 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. Where the assets referred to in paragraphs 1 and 2 consist of intellectual property rights, the Commission shall manage those rights as effectively as possible, taking account of:

- (a) the need to protect and give value to the assets;
- (b) the legitimate interests of all stakeholders concerned;
- (c) the need for harmonious development of markets and new technologies; and
- (d) the need for the continuity of the services provided by the Programme's components.

The Commission shall ensure in particular that the relevant contracts, agreements and other arrangements include the possibility of transferring those intellectual property rights to third parties or of granting third-party licences for those rights, including to the creator of the intellectual property, and that the Agency can freely enjoy those rights where necessary for carrying out its tasks under this Regulation.

The FFPA provided for in Article 28(4) or the contribution agreements referred to in Article 32(1) shall contain relevant provisions to allow the use of the intellectual property rights referred to in the first subparagraph of this paragraph by ESA and the other entrusted entities where necessary to perform their tasks under this Regulation, and the conditions for that use.

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<sup>(39)</sup> Decision No 1104/2011/EU of the European Parliament and of the Council of 25 October 2011 on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (OJ L 287, 4.11.2011, p. 1).

*Article 10***Warranty**

1. Without prejudice to the obligations imposed by legally binding provisions, the services, data and information provided by the Programme's components shall be provided without any express or implied warranty as regards their quality, accuracy, availability, reliability, speed and suitability for any purpose.
2. The Commission shall ensure that the users of those services, data and information are duly informed of paragraph 1.

## TITLE II

**BUDGETARY CONTRIBUTION AND MECHANISMS***Article 11***Budget**

1. The financial envelope for the implementation of the Programme for the period from 1 January 2021 to 31 December 2027 and for covering the associated risks shall be EUR 14,880 billion in current prices.

The distribution of the amount referred to in the first subparagraph shall be broken down in the following categories of expenditure:

- (a) for Galileo and EGNOS: EUR 9,017 billion;
- (b) for Copernicus: EUR 5,421 billion;
- (c) for SSA and GOVSATCOM: EUR 0,442 billion.

2. The Commission may reallocate funds between the categories of expenditure referred to in paragraph 1 of this Article, up to a ceiling of 7,5 % of the category of expenditure that receives the funds or the category that provides the funds. The Commission may, by means of implementing acts, reallocate funds between the categories of expenditure referred to in paragraph 1 of this Article when that reallocation exceeds a cumulative amount greater than 7,5 % of the amount allocated to the category of expenditure that receives the funds or the category that provides the funds. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

3. Additional measures as provided for in Article 3(2), namely activities referred to in Articles 5 and 6, shall be financed under the Programme's components.

4. The Union budget 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.

5. Actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.

6. The budgetary 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.

7. Resources allocated to Member States under shared management may, at the request of the Member State concerned, be transferred to the Programme, subject to the conditions set out in Article 26 of the Common Provisions Regulation. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

#### *Article 12*

### **Assigned revenue**

1. The revenue generated by the Programme's components 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 to cover additional elements, on condition that such additional elements do not create any financial or technical burden or any delay for the component concerned. The Commission shall, by means of implementing acts, decide whether those conditions have been met. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

3. The additional financial contribution 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 Union funding**

1. The Programme shall be implemented under direct management in accordance with the Financial Regulation or under indirect management with bodies referred to in point (c) of the first subparagraph of Article 62(1) 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.

3. Where the Copernicus budget is implemented under indirect management, the procurement rules of the entities entrusted with budget implementation tasks may apply to the extent allowed under Articles 62 and 154 of the Financial Regulation. Specific adjustments necessary to those procurement rules shall be defined in the relevant contribution agreements.

#### TITLE III

### **FINANCIAL PROVISIONS**

#### CHAPTER I

### **Procurement**

#### *Article 14*

### **Principles of procurement**

1. In procurement procedures for the purpose of the Programme, the contracting authority shall act in accordance with the following principles:

- (a) to promote in all Member States throughout the Union and throughout the supply chain, the widest and most open participation possible by economic operators, in particular start-ups, new entrants and SMEs, including in the case of sub-contracting by the tenderers;
- (b) to ensure effective competition and, where possible, to avoid reliance on a single provider, in particular for critical equipment and services, while taking into account the objectives of technological independence and continuity of services;
- (c) by way of 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 Programme's components, their cost and schedule;
- (d) to follow the principles of open access and fair competition throughout the industrial supply chain, by tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules and procedures, selection and award criteria and any other relevant information allowing a level-playing field for all potential tenderers, including SMEs and start-ups;
- (e) to reinforce the autonomy of the Union, in particular in technological terms;
- (f) to comply with the security requirements of the Programme's components and to contribute to the protection of the essential security interests of the Union and its Member States;
- (g) to promote service continuity and reliability;
- (h) to satisfy appropriate social and environmental criteria.

2. The procurement board, within the Commission, shall scrutinise the procurement process related to all of the Programme's components and monitor the contractual implementation of the Union budget delegated to entrusted entities. A representative of each of the entrusted entities shall be invited where appropriate.

#### Article 15

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

1. With regard to operational and infrastructure-specific activities, the contracting authority may award a contract in the form of a conditional stage-payment contract in accordance with this Article.
2. The procurement documents for a conditional stage-payment contract shall 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. A conditional stage-payment contract shall include:
  - (a) a fixed stage which results in a firm commitment to provide the works, supplies or services contracted for that stage; and
  - (b) one or more stages, which are conditional in terms of both budget and execution.
4. The obligations under the fixed stage and the obligations under each conditional stage shall be part of a consistent whole, taking into account the obligations under the previous or subsequent stages.
5. 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 contract under the conditions laid down in paragraph 3.
2. The price to be paid under a cost-reimbursement contract shall consist of the reimbursement of:

- (a) 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;
  - (b) indirect costs;
  - (c) a fixed profit; and
  - (d) an appropriate incentive fee based on achieving objectives in respect of performance and delivery schedules.
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 the 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 an accurate 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. Cost-reimbursement contracts shall stipulate a maximum ceiling price. The maximum ceiling price for a full or partial cost-reimbursement contract shall be the maximum price payable. The price may be modified in accordance with Article 172 of the Financial Regulation.

#### Article 17

### **Subcontracting**

1. To encourage new entrants, SMEs and start-ups and their cross-border participation, and to offer the widest possible geographical coverage while protecting the Union's autonomy, the contracting authority shall request that the tenderer subcontracts 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 tenderer shall justify any derogation from a request made under paragraph 1.
3. For contracts above EUR 10 million, the contracting authority shall aim to ensure that at least 30 % of the value of the contract is subcontracted by competitive tendering at various levels of subcontracting to companies outside the group of the prime tenderer, particularly in order to enable the cross-border participation of SMEs. The Commission shall inform the Programme committee referred to in Article 107(1) on the fulfilment of that objective for contracts signed after the entry into force of this Regulation.

#### 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 when applying flat rates, the authorising officer responsible may authorise or impose funding of the beneficiary's indirect costs up to a maximum of 25 % of total eligible direct costs for the action.
3. Notwithstanding paragraph 2 of this Article, 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

1. The Commission or an entrusted entity in the context of the Programme may issue a joint call for proposals with entities, bodies or persons referred to in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation.
2. In the case of a joint call referred to in paragraph 1 of this Article:
  - (a) the rules referred to in Title VIII of the Financial Regulation shall apply;
  - (b) the evaluation procedures shall involve a balanced group of experts appointed by each party; and
  - (c) the evaluation committees shall comply with Article 150 of the Financial Regulation.
3. The grant agreement shall specify the arrangement applicable to intellectual property rights.

#### 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<sup>(40)</sup>, 2014/25/EU<sup>(41)</sup> and 2009/81/EC<sup>(42)</sup> of the European Parliament and of the Council.
2. The procurement procedures for innovative solutions:
  - (a) shall comply with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality and competition rules;
  - (b) in the case of 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 the third countries participating in the Programme;
  - (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 the absence of conflicts of interest.
3. The contractor generating results in pre-commercial procurement shall own at least the intellectual property rights attached to the results. 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 contractor 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-licence. 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 may require it to transfer any ownership of the results to the contracting authorities.

<sup>(40)</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

<sup>(41)</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

<sup>(42)</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

*Article 21***Blending operations**

Blending operations decided under the Programme shall be implemented in accordance with Regulation (EU) 2021/523 and Title X of the Financial Regulation.

## CHAPTER III

**Other financial provisions***Article 22***Cumulative and alternative funding**

1. An action that has received a contribution under the Programme may also receive a contribution from another Union programme, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. 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 label under the Programme may receive support from the European Regional Development Fund or the European Social Fund Plus, in accordance with Article 73(4) of the Common Provisions Regulation, if they 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 cannot be financed under that call for proposals due to budgetary constraints.

*Article 23***Joint procurement**

1. In addition to the provisions of Article 165 of the Financial Regulation, the Commission or the Agency may carry out joint procurement procedures with ESA or other international organisations involved in implementing the Programme's components.

2. The procurement rules applicable under Article 165 of the Financial Regulation shall apply by analogy provided that in any case the procedural provisions applicable to the Union institutions are applied.

*Article 24***Eligibility and participation conditions for the preservation of the security, integrity and resilience of operational systems of the Union**

1. The Commission shall apply the eligibility and participation conditions set out in paragraph 2 to the procurement, grants or prizes under this Title if it deems that this is necessary and appropriate to preserve the security, integrity and resilience of the operational Union systems, taking into account the objective to promote the Union's strategic autonomy, in particular in terms of technology across key technologies and value chains, while preserving an open economy.

Before applying the eligibility and participation conditions in accordance with the first subparagraph of this paragraph the Commission shall inform the Programme committee referred to in point (e) of Article 107(1) and shall take utmost account of the Member States' views on the scope of application of and the justification for those eligibility and participation conditions.

2. The eligibility and participation conditions shall be as follows:

- (a) the eligible legal entity is established in a Member State and its executive management structures are established in that Member State;
- (b) the eligible legal entity commits to carry out all relevant activities in one or more Member States; and
- (c) the eligible legal entity is not to be subject to control by a third country or by a third country entity.

For the purpose of this Article, 'control' means the ability to exercise a decisive influence over a legal entity directly, or indirectly through one or more intermediate legal entities.

For the purpose of this Article, 'executive management structure' means the body of a legal entity appointed in accordance with national law, and which, where applicable, reports to the chief executive officer or any other person having comparable decisional power, and which is empowered to establish the legal entity's strategy, objectives and overall direction, and oversees and monitors management decision-making.

3. The Commission may waive the conditions under points (a) or (b) of the first subparagraph of paragraph 2 for a particular legal entity upon evaluation based on the following cumulative criteria:

- (a) for specific technologies, goods or services needed for the activities referred to in paragraph 1 no substitutes are readily available in the Member States;
- (b) the legal entity is established in a country which is a member of the EEA or EFTA and which has concluded an international agreement with the Union as referred to in Article 7, its executive management structures are established in that country and the activities linked to the procurement, grant or prize are carried out in that country or in one or more such countries; and
- (c) sufficient measures are implemented to ensure the protection of EUCI under Article 43 and the integrity, security and resilience of the Programme's components, their operation and their services.

By way of derogation from point (b) of the first subparagraph of this paragraph, the Commission may waive the conditions under points (a) or (b) of the first subparagraph of paragraph 2 for a legal entity established in a third country which is not a member of the EEA or EFTA if no substitutes are readily available in countries which are members of the EEA or EFTA and the criteria set out in points (a) and (c) of the first subparagraph are met.

4. The Commission may waive the condition under point (c) of the first subparagraph of paragraph 2 if the legal entity established in a Member State provides the following guarantees:

- (a) control over the legal entity is not exercised in a manner that restrains or restricts its ability to:
  - (i) carry out the procurement, grant or prize; and
  - (ii) deliver results, in particular through reporting obligations;
- (b) the controlling third country or third country entity commits to refrain from exercising any controlling rights over or imposing reporting obligations on the legal entity in relation to the procurement, grant or prize; and
- (c) the legal entity complies with Article 34(7).

5. The competent authorities of the Member State in which the legal entity is established shall assess whether the legal entity complies with the criteria set out in point (c) of paragraph 3 and guarantees referred to in paragraph 4. The Commission shall comply with that assessment.

6. The Commission shall provide the following to the Programme committee referred to in point (e) of Article 107(1):

- (a) the scope of application of eligibility and participation conditions referred to in paragraph 1 of this Article;
- (b) details and justifications on the waivers granted in accordance with this Article; and

(c) the evaluation that formed the basis for a waiver, subject to paragraphs 3 and 4 of this Article, without divulging commercially sensitive information.

7. The conditions set out in paragraph 2, the criteria set out in paragraph 3 and the guarantees set out in paragraph 4 shall be included in the documents relating to the procurement, grant or prize, as applicable, and, in the case of procurement, they shall apply to the full life cycle of the resulting contract.

8. This Article is without prejudice to Decision No 1104/2011/EU and Commission Delegated Decision of 15.9.2015<sup>(43)</sup>, Regulation (EU) 2019/452, Decision 2013/488/EU and Decision (EU, Euratom) 2015/444 and to the security vetting carried out by Member States with regard to legal entities involved in activities requiring access to EUCI subject to the applicable national laws and regulations.

If contracts resulting from the application of this Article are classified, eligibility and participation conditions applied by the Commission in accordance with paragraph 1 shall be without prejudice to the competence of national security authorities.

This Article shall not interfere with, amend or contradict any existing Facility Security Clearance and Personnel Security Clearance procedure within a Member State.

#### Article 25

### Protection of the financial interests of the Union

Where a third country participates in the Programme by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise 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, as provided for in Regulation (EU, Euratom) No 883/2013.

#### TITLE IV

### GOVERNANCE OF THE PROGRAMME

#### Article 26

### Principles of governance

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

- (a) clear distribution of tasks and responsibilities between the entities involved in the implementation of each of the Programme's components and measures, in particular between the Member States, the Commission, the Agency, ESA and EUMETSAT, building on their respective competences and avoiding any overlap in tasks and responsibilities;
- (b) relevance of the governance structure to the specific needs of each of the Programme's components and measures, as appropriate;
- (c) strong control of the Programme, including strict adherence to cost, schedule and performance by all the entities, within their respective roles and tasks in accordance with this Regulation;
- (d) transparent and cost-efficient management;
- (e) service continuity and necessary infrastructure continuity, including protection from relevant threats;

<sup>(43)</sup> Commission Delegated Decision of 15.9.2015 supplementing Decision No 1104/2011/EU of the European Parliament and of the Council as regards the common minimum standards to be complied with by the competent PRS authorities C(2015) 6123.

- (f) systematic and structured consideration of the needs of users of the data, information and services provided by the Programme's components, as well as of related scientific and technological evolutions;
- (g) constant efforts to control and reduce risks.

#### *Article 27*

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

1. The Member States may participate in the Programme. Member States which participate in the Programme shall contribute with their technical competence, know-how and assistance, in particular in the field of safety and security, or, where appropriate and possible, by making available to the Union the data, information, services and infrastructure in their possession or located on their territory, including by ensuring an efficient and obstacle free access and use of Copernicus in-situ data and cooperating with the Commission to improve the availability of Copernicus in-situ data required by the Programme, taking into account applicable licences and obligations.
2. The Commission may entrust, by means of contribution agreements, specific tasks to Member State organisations, where such organisations have been designated by the Member State concerned. The Commission shall adopt the contribution decisions regarding the contribution agreements by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 107(2).
3. In certain duly justified circumstances, for the tasks referred to in Article 29 the Agency may entrust, by means of contribution agreements, specific tasks to Member State organisations, where such organisations have been designated by the Member State concerned.
4. The Member States shall take all the necessary measures to ensure the smooth functioning of the Programme, including by helping to protect, at the appropriate level, the frequencies required for the Programme.
5. The Member States and the Commission may cooperate to widen the uptake of data, information and services provided by the Programme's components.
6. Whenever possible, the contribution of Member States to the User Forum referred to in Article 107(6) shall be based on a systematic and coordinated consultation of end user communities at national level, in particular regarding Galileo, EGNOS and Copernicus.
7. The Member States and the Commission shall cooperate in order to develop the in-situ component of Copernicus and ground calibration services necessary for the uptake of space systems and to facilitate the use of Copernicus in-situ data and reference data sets to their full potential, building on existing capacities.
8. In the field of security, the Member States shall perform the tasks referred to in Article 34(6).

#### *Article 28*

### **Role of the Commission**

1. The Commission shall have overall responsibility for the implementation of the Programme, including in the field of security, without prejudice to Member States' prerogatives in the area of national security. The Commission shall, in accordance with this Regulation, determine the priorities and long-term evolution of the Programme, in line with the user requirements, and shall supervise its implementation, without prejudice to other policies of the Union.
2. The Commission shall manage any of the Programme's components or sub-components not entrusted to another entity, in particular GOVSATCOM, NEO sub-component, SWE sub-component and the activities referred to in point (d) of Article 55(1).

3. The Commission shall ensure a clear division of tasks and responsibilities between the various entities involved in the Programme and shall coordinate the activities of those entities. The Commission shall also ensure that all the entrusted entities involved in the implementation of the Programme protect the interest of the Union, guarantee the sound management of the Union's funds and comply with the Financial Regulation and this Regulation.

4. The Commission shall conclude with the Agency and, taking into account the 2004 Framework Agreement, ESA, an FPPA as provided for in Article 130 of the Financial Regulation.

5. Where 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 requirements needed for the implementation of and evolution of those components and of the services they provide after having consulted users, including through the User Forum referred to in Article 107(6), and other stakeholders. When determining those technical and operational requirements, the Commission shall avoid reducing the general security level and shall imperatively meet backwards compatibility requirements.

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

6. Without prejudice to the tasks of the Agency or of other entrusted entities, the Commission shall ensure that the uptake and use of the data and services provided by the Programme's components is promoted and maximised in the public and private sectors, including by supporting appropriate development of those services and user-friendly interfaces, and by fostering a stable long-term environment. It shall develop appropriate synergies between the applications of the Programme's various components. It shall ensure complementarity, consistency, synergies and links between the Programme and other Union actions and programmes.

7. Where appropriate, the Commission shall ensure the coherence of activities performed in the context of the Programme with activities carried out in the space domain at Union, national or international level. It shall encourage cooperation between the Member States and, when relevant to the Programme, facilitate convergence of their technological capacities and developments in the space domain. To that end, the Commission shall, where appropriate and in their respective field of competence, cooperate with the Agency and ESA.

8. The Commission shall inform the Programme committee referred to in Article 107 of the interim and final results of the evaluation of any procurement procedures and of any contracts, including subcontracts, with public and private entities.

#### Article 29

### Role of the Agency

1. The Agency shall have the following own tasks:

- (a) to ensure, through its Security Accreditation Board, the security accreditation of all the Programme's components in accordance with Chapter II of Title V;
- (b) to perform tasks referred to in Article 34(3) and (5);
- (c) to undertake communication, market development and promotion activities as regards the services offered by Galileo and EGNOS, in particular activities relating to the market uptake and coordination of user needs;
- (d) to undertake communication, market development and promotion activities as regards data, information and services offered by Copernicus, without prejudice to the activities performed by other entrusted entities and the Commission;
- (e) to provide expertise to the Commission, including for the preparation of the downstream space-related research priorities.

2. The Commission shall entrust the following tasks to the Agency:
  - (a) managing the exploitation of EGNOS and Galileo, as provided for in Article 44;
  - (b) overarching coordination of user-related aspects of GOVSATCOM in close collaboration with Member States, relevant Union agencies, EEAS and other entities for the purpose of crisis management missions and operations;
  - (c) implementing activities relating to the development of downstream applications based on the Programme's components and fundamental elements and integrated applications based on the data and services provided by Galileo, EGNOS and Copernicus, including where funding has been made available for such activities in the context of the Horizon Europe or where necessary to fulfil the objectives referred to in point (b) of Article 4(1);
  - (d) undertaking activities related to user uptake of data, information and services, offered by the Programme's components other than Galileo and EGNOS; without affecting Copernicus activities and Copernicus Services entrusted to other entities;
  - (e) specific actions referred to in Article 6.
3. The Commission may, on the basis of the assessments referred to in Article 102(5), entrust other tasks to the Agency, provided that they do not duplicate activities performed by other entrusted entities in the context of the Programme and provided that they aim to improve the efficiency of the implementation of the Programme's activities.
4. Whenever activities are entrusted to the Agency, appropriate financial, human and administrative resources shall be ensured for their implementation.
5. By way of derogation from Article 62(1) of the Financial Regulation and subject to the Commission's assessment of the protection of the Union's interests, the Agency may entrust, by means of contribution agreements, specific activities to other entities, in areas of their respective competence, under the conditions of indirect management applying to the Commission.

#### *Article 30*

#### **Role of ESA**

1. Provided that the interest of the Union is protected, ESA shall be entrusted with the following tasks:
  - (a) as regards Copernicus:
    - (i) coordination of the space component and of the implementation of the space component and its evolution;
    - (ii) design, development and construction of the Copernicus space infrastructure, including the operations of that infrastructure and related procurement, except when those operations are done by other entities; and
    - (iii) where appropriate, provision of access to third party data;
  - (b) as regards Galileo and EGNOS: systems evolution and design and development of parts of the ground segment, and of satellites, including testing and validation;
  - (c) as regards all of the Programme's components: upstream research and development activities in ESA's fields of expertise.
2. On the basis of an assessment by the Commission, ESA may be entrusted with other tasks based on the needs of the Programme, provided that those tasks do not duplicate activities performed by another entrusted entity in the context of the Programme and that they aim to improve the efficiency of the implementation of the Programme's activities.
3. Without prejudice to the FFPA provided for in Article 31, the Commission or the Agency may request ESA to provide technical expertise and the information necessary to perform the tasks which are assigned to them by this Regulation under conditions to be mutually agreed.

*Article 31***The financial framework partnership agreement**

1. The FFPA referred to in Article 28(4) shall:
  - (a) clearly define the roles, responsibilities and obligations of the Commission, the Agency and ESA with regard to each of the Programme's components and necessary coordination and control mechanisms;
  - (b) require that ESA applies the Union security rules defined in the security agreements concluded between the Union, and its institutions and agencies, with ESA, in particular with regard to the processing of classified information;
  - (c) stipulate the conditions of the management of funds entrusted to ESA, particularly with regard to public procurement, including the application of Union procurement rules when procuring in the name and on behalf of the Union or the application of the rules of the entrusted entity in accordance with Article 154 of the Financial Regulation, 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; those conditions shall be in conformity with Titles III and V of this Regulation and with the Financial Regulation;
  - (d) require that, whenever a Tender Evaluation Board is established by the Agency or ESA for a procurement performed under the FFPA, experts from the Commission and, where relevant, from the other entrusted entity shall participate as members in the Tender Evaluation Board meetings. Such participation shall not affect the technical independence of the Tender Evaluation Board;
  - (e) establish the monitoring and control measures, which shall include, in particular:
    - (i) a cost forecast system;
    - (ii) the systematic provision of information to the Commission or, where appropriate, to the Agency, on costs and schedule; and
    - (iii) in the event of a discrepancy between the planned budgets, performance and schedule, corrective action ensuring performance of the tasks within the allocated budgets;
  - (f) establish the principles for the remuneration of ESA for each of the Programme's components, which shall be commensurate with the conditions under which the actions are implemented, taking due account of situations of crisis and fragility and which, where appropriate, shall be performance based; the remuneration shall only cover general overheads which are associated with the activities entrusted to ESA by the Union;
  - (g) provide that ESA takes appropriate measures to ensure the protection of the interests of the Union and to comply with the decisions taken by the Commission for each of the Programme's components in application of this Regulation.
2. The Commission shall, by means of implementing acts, decide on the FFPA. Those implementing acts shall be adopted in accordance with the examination procedure referred in Article 107(3). The European Parliament and the Council shall be fully informed about the FFPA well in advance of its conclusion and about its implementation.
3. Under the FFPA referred to in paragraph 1 of this Article, the tasks referred to in Article 29(2) and (3) shall be entrusted to the Agency and the tasks referred to in Article 30(1) shall be entrusted to ESA, by means of contribution agreements. The Commission shall, by means of implementing acts, adopt the contribution decision regarding the contribution agreements. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 107(2). The European Parliament and the Council shall be fully informed about the contribution agreements well in advance of their conclusion and about their implementation.



*Article 32***Role of EUMETSAT and other entities**

1. The Commission may entrust, in full or in part, by means of contribution agreements, the implementation of the following tasks to entities other than those referred to in Articles 29 and 30:
  - (a) the upgrading, operations preparation and operation of the Copernicus space infrastructure or parts thereof and, where appropriate, management of access to contributing mission data, which may be entrusted to EUMETSAT;
  - (b) the implementation of the Copernicus Services or parts thereof to relevant agencies, bodies or organisations, such as the European Environment Agency, Frontex, the European Maritime Safety Agency, the SATCEN and the European Centre for Medium-Range Weather Forecasts; the tasks entrusted to those agencies, bodies or organisations shall be performed in sites located in the Union; an agency, body or organisation, already in the process of relocating its entrusted tasks to the Union, may continue to perform those tasks in a location outside the Union for a limited period, ending at the latest by 31 December 2023.
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 disruption of the Programme's activities.
3. Whenever possible, the conditions of the contribution agreements referred to in paragraph 1 of this Article shall be coherent with the conditions of the FPPA referred to in Article 31(1).
4. The Programme committee shall be consulted on the contribution decision regarding the contribution agreement referred to in paragraph 1 of this Article in accordance with the advisory procedure referred to in Article 107(2). The Programme committee shall be informed in advance of the contribution agreements to be concluded by the Union, represented by the Commission and the entities referred to in paragraph 1 of this Article.

## TITLE V

**SECURITY OF THE PROGRAMME**

## CHAPTER I

***Security of the Programme****Article 33***Principles of security**

The security of the Programme shall 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 the security rules of the Council and of the Commission, which provide, inter alia, for a separation between operational functions and those associated with accreditation.

*Article 34***Governance of security**

1. The Commission shall, in its field of competence and with the support of the Agency, ensure a high degree of security with regard, in particular, to:

- (a) the protection of infrastructure, both ground and space, and of the provision of services, particularly against physical or cyber-attacks, including interference with data streams;
- (b) the control and management of technology transfers;
- (c) the development and preservation within the Union of the competences and know-how acquired;
- (d) the protection of sensitive non-classified information and classified information.

2. For the purpose of paragraph 1 of this Article, the Commission shall ensure that a risk and threat analysis is performed for each of the Programme's components. Based on that analysis, it shall determine by the end of 2023, by means of implementing acts, for each of the Programme's components, 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 that the general level of security is not reduced and that the functioning of the existing equipment based on that component is not undermined and shall take into account cybersecurity risks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

After the entry into force of this Regulation, the Commission shall communicate an indicative list of implementing acts to be submitted to and discussed by the Programme committee in security configuration. That list shall be accompanied by an indicative timetable for submission of those implementing acts.

3. The entity responsible for the management of a component of the Programme shall be responsible for the operational 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 2 of this Article. Pursuant to Article 29, for Galileo and EGNOS that entity shall be the Agency.

4. Based on the risk and threat analysis, the Commission shall, where appropriate, identify a structure to monitor security and to follow the instructions developed under the scope of Decision (CFSP) 2021/698. The structure shall operate in accordance with the security requirements referred to in paragraph 2. For Galileo, that structure shall be the Galileo Security Monitoring Centre.

5. The Agency shall:

- (a) ensure the security accreditation of all the Programme's components in accordance with Chapter II of this Title and without prejudice to 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 of this Article and the instructions developed under the scope of Decision (CFSP) 2021/698;
- (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.

6. To ensure the protection of the ground infrastructures which form an integral part of the Programme and which are located on their territory the Member States shall:

- (a) take measures which are at least equivalent to those necessary for:
  - (i) the protection of European critical infrastructures within the meaning of Council Directive 2008/114/EC <sup>(44)</sup>; and
  - (ii) the protection of their own national critical infrastructures;
- (b) perform the security accreditation tasks referred to in Article 42 of this Regulation.

7. The entities involved in the Programme shall take all the necessary measures, including in light of the issues identified in the risk analysis, to ensure the security of the Programme.

<sup>(44)</sup> 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 (OJ L 345, 23.12.2008, p. 75).

*Article 35***Security of systems and services deployed**

Whenever the security of the Union or its Member States may be affected by the operation of the systems, the procedures set out in Decision (CFSP) 2021/698 shall apply.

## CHAPTER II

**Security accreditation***Article 36***Security Accreditation Authority**

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

*Article 37***General principles of security accreditation**

Security accreditation activities for all of the Programme's components 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 concerned 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 that component;
- (d) decisions of the Security Accreditation Board on security accreditation 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 who act objectively;
- (e) efforts shall be made to consult all relevant parties with an interest in security issues for the component concerned;
- (f) security accreditation activities shall be carried out by all relevant stakeholders of the component concerned in accordance with a security accreditation strategy, without prejudice to the role of the Commission;
- (g) decisions of the Security Accreditation Board on security accreditation shall, following the process defined in the relevant security accreditation strategy defined by that Board, be based on local decisions on security accreditation 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 concerned 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 concerned;
- (i) the Security Accreditation Board shall take decisions on security accreditation in a strictly independent manner, including with regard to the Commission and the other bodies responsible for the implementation of the component concerned 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 rules;
- (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 38

#### **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 which sets out:
    - (i) the scope of the activities necessary to perform and maintain the accreditation of the Programme's components or parts of those components and any interconnections between them and other systems or components;
    - (ii) a security accreditation process for the Programme's components or parts of those 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 that complies with the phases of the Programme's components, 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 Programme's components or for parts of those components, and for equipment connected to systems established by those components, which shall be performed by the national entities of the Member States competent in security matters;
  - (b) taking decisions on security accreditation, in particular on the approval of satellite launches, the authorisation to operate the systems set up under the Programme's components or the elements of those 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;
  - (c) taking decisions concerning the networks and the equipment connected to the PRS service referred to in Article 45, or connected to any other secure service stemming from the Programme's components, 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(2), taking into account the advice provided by national entities competent in security matters and the overall security risks;
  - (d) examining and, except as regards documents which the Commission is to adopt under Article 34(2) of this Regulation and Article 8 of Decision No 1104/2011/EU, approving all documentation relating to security accreditation;
  - (e) advising, within its field of competence, the Commission on the production of draft texts for acts referred to in Article 34(2) of this Regulation and Article 8 of Decision No 1104/2011/EU, including for the establishment of security operating procedures, and providing a statement with its concluding position;
  - (f) examining and approving the security risk assessment drawn up in accordance with the monitoring process referred to in point (h) of Article 37 of this Regulation, taking into account compliance with the documents referred to in point (c) of this paragraph and those drawn up in accordance with Article 34(2) of this Regulation, and with Article 8 of Decision No 1104/2011/EU; and cooperating with the Commission to define risk mitigation measures;

- (g) checking the implementation of security measures in relation to the security accreditation of the Programme's components by undertaking or sponsoring security assessments, inspections, audits or reviews, in accordance with Article 42(2) of this Regulation;
- (h) 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 Programme's components;
- (i) 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 Programme's components or under parts of those components and other systems;
- (j) agreeing with the relevant Member State on the template for access control referred to in Article 42(4);
- (k) 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 decision on security accreditation;
- (l) assisting, in close liaison with the Commission, the Council and the High Representative, with the implementation of Decision (CFSP) 2021/698 upon a specific request from the Council or the High Representative;
- (m) carrying out consultations which are necessary to perform its tasks;
- (n) adopting and publishing its rules of procedure.

3. Without prejudice to the powers and responsibilities 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 in particular the following tasks:

- (a) the management of the Programme flight keys;
- (b) the verification, monitoring and assessment of the establishment and enforcement of procedures for accounting, secure handling, storage, distribution and disposal of the PRS keys of Galileo.

#### Article 39

### 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. The term of office of the members of the Security Accreditation Board shall be four years and shall be renewable.

2. Participation in Security Accreditation Board meetings shall be on a need-to-know-basis. Where appropriate, representatives of ESA and representatives of the Agency not involved in security accreditation may be invited to attend the meetings of the Security Accreditation Board as observers. On an exceptional basis, representatives of Union Agencies, third countries or international organisations may also be invited to attend meetings of the Security Accreditation Board 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 condition for such participation shall be laid down in the relevant agreements and shall comply with the rules of procedure of the Security Accreditation Board.

#### Article 40

### Voting rules of the Security Accreditation Board

If consensus according to the general principle referred to in point (b) of Article 37 of this Regulation cannot be reached, the Security Accreditation Board shall take decisions on the basis of qualified majority voting, in accordance with Article 16 TEU. 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 41***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 Programme's components and of the implementation of residual risk treatment plans. The Security Accreditation Board shall take note of any such information received 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 decisions on security accreditation on the proper conduct of the Programme's components. If the Commission considers that a decision taken by the Security Accreditation Board could have a significant effect on the proper conduct of those 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 42***Role of the Member States in security accreditation**

1. Member States shall transmit to the Security Accreditation Board all information they consider relevant for the purposes of security accreditation.
2. In agreement with and under the supervision of national entities competent in security matters, Member States shall permit duly authorised persons appointed by the Security Accreditation Board to have access to any information and to any areas and sites related to the security of systems falling within their jurisdiction, in accordance with their national laws and regulations, 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 point (h) of Article 37. That access shall be without any discrimination on the grounds of nationality against nationals of Member States.
3. Audits and tests referred to in paragraph 2 shall be performed in accordance with the following principles:
  - (a) the importance of security and effective risk management within the entities inspected shall be emphasised;
  - (b) countermeasures to mitigate the specific impact of loss of confidentiality, integrity or availability of classified information shall be recommended.
4. Each Member State shall be responsible for devising a template for access control, which outlines or lists the areas or sites to be accredited. The template for access control 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.
5. Member States shall 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 Programme's components, and report, to this end, to the Security Accreditation Board.

## CHAPTER III

**Protection of classified information**

## Article 43

**Protection of classified information**

1. The exchange of classified information related to the Programme shall be subject to the existence of an international agreement between the Union and a third country or international organisation on the exchange of classified information or, where applicable, an arrangement entered into by the competent Union institution or body and the relevant authorities of a third country or international organisation on the exchange of classified information, and to the conditions laid down therein.
2. Natural persons resident in and legal persons established in third countries may deal with EUCI regarding the Programme only where they are subject, in those third 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 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, if relevant, industrial security matters, 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.
3. Without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to EUCI 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.

## TITLE VI

**GALILEO AND EGNOS**

## Article 44

**Eligible actions**

The exploitation of Galileo and EGNOS shall cover the following eligible actions:

- (a) the management, operation, maintenance, continuous improvement, evolution and protection of space-based infrastructure, including upgrades and obsolescence management;
- (b) the management, operation, maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular ground-based centres and stations referred to in Implementing Decision (EU) 2016/413 or Commission Implementing Decision (EU) 2017/1406 <sup>(45)</sup>, networks, 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, including by taking into account the needs of relevant stakeholders; this shall not affect future decisions on the Union financial perspectives;
- (d) support the development of Galileo and EGNOS downstream applications and the development and evolution of fundamental technological elements, such as Galileo-enabled chipsets and receivers;
- (e) the support of certification and standardisation activities related to Galileo and EGNOS, in particular in the transport sector;

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<sup>(45)</sup> Commission Implementing Decision (EU) 2017/1406 of 31 July 2017 determining the location of the ground-based infrastructure of the EGNOS system (OJ L 200, 1.8.2017, p. 4).

- (f) the continuous provision of the services provided by Galileo and EGNOS and, in complementarity with Member States and private sector initiatives, the market development of those services, in particular in order to maximise the socio-economic benefits referred to in point (b) of Article 4(1);
- (g) cooperation with other regional or global satellite navigation systems, including to facilitate compatibility and interoperability;
- (h) elements to monitor the reliability of the systems and their exploitation, and the performance of the services;
- (i) activities related to the provision of services and to the coordination of the extension of their coverage.

#### Article 45

### Services provided by Galileo

1. The services provided by Galileo shall comprise:
  - (a) a Galileo open service (GOS), which shall be free of charge for users and shall provide 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 for sensitive applications which require a high level of service continuity, including in the area of security and defence, using strong, encrypted signals; it shall be free of charge for the Member States, the Council, the Commission, EEAS and, where appropriate, duly authorised Union agencies; the question of whether to charge the other PRS participants referred to in Article 2 of Decision No 1104/2011/EU shall be assessed on a case-by-case basis and appropriate provisions shall be specified in the agreements concluded pursuant to Article 3(5) of that Decision; access to PRS shall be regulated in accordance with Decision No 1104/2011/EU;
  - (e) an emergency service (ES), which shall be free of charge for users and shall broadcast, through emitting signals, warnings regarding natural disasters or other emergencies in particular areas; where appropriate, it shall be provided in cooperation with Member States national civil protection authorities;
  - (f) a timing service (TS), which shall be free of charge for users and shall provide an accurate and robust reference time, as well as realisation 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 standardised 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 via the GNSS Service Centre as referred to in Implementing Decision (EU) 2016/413 and early warning services 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.



*Article 46***Services provided by EGNOS**

1. The services provided by EGNOS shall comprise:
  - (a) an EGNOS open service (EOS), which shall be free of direct user charges 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 be free of direct user charges and 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 time 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 EGNOS 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, in accordance with ICAO standards, or other transport sectors.
2. The services referred to in paragraph 1 shall be provided as a priority on the territory of all Member States geographically located in Europe, including for that purpose Cyprus, the Azores, the Canary Islands and Madeira, by the end of 2026.
3. 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 in conformity with security requirements referred to in Article 34(2), and, for the SoL service, on the basis of international agreements.
4. The cost of the extension of the geographical coverage of EGNOS under paragraph 3 of this Article, including the related operating costs specific to these regions, shall not be covered by the budget referred to in Article 11. The Commission shall consider other programmes or instrument to finance such activities. Such extension shall not delay the offering of the services referred to in paragraph 1 of this Article throughout the territory of Member States geographically located in Europe.

*Article 47***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, by means of implementing acts, lay down, where necessary, measures required to:

- (a) manage and reduce the risks inherent in the operation of Galileo and EGNOS, in particular to ensure service continuity;
- (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;
- (d) determine the technical and operational specifications relating to the services referred to in points (c), (e) and (f) of Article 45(1) and point (c) of Article 45(2).

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

*Article 48***Compatibility, interoperability and standardisation**

1. Galileo and EGNOS, and the services which they provide, shall be compatible and interoperable from a technical point of view, including at user level.
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 and conditions thereof are laid down in international agreements.

## TITLE VII

## COPERNICUS

## CHAPTER I

**General provisions***Article 49***Scope of Copernicus**

1. Copernicus shall be implemented building on prior investments, including by stakeholders such as ESA and EUMETSAT and, where appropriate and cost-effective, 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, while maximising opportunities for European users.
2. Copernicus shall deliver data and information building on the needs of the Copernicus users and based on a free, full and open data policy.
3. Copernicus shall support the formulation, implementation and monitoring of the Union's and its Member States' policies in particular in the fields of the environment, climate change, marine, maritime, atmosphere, agriculture and rural development, preservation of cultural heritage, civil protection, infrastructure monitoring, safety and security, as well as the digital economy with the aim to further reduce the administrative burden.
4. Copernicus shall comprise the following elements:
  - (a) data acquisition, which shall include:
    - (i) development and operations of the Copernicus Sentinels;
    - (ii) access to third party space-based Earth observation data;
    - (iii) access to in-situ and other ancillary data;
  - (b) data and information processing through Copernicus Services, which shall include activities for the generation of value-added information to support environmental monitoring, reporting and compliance assurance, civil protection and security services;
  - (c) data access and distribution, which shall include infrastructure and services to ensure the discovery, viewing, access to, distribution and exploitation and long-term preservation of Copernicus data and Copernicus information, in a user-friendly manner;
  - (d) user uptake, market development and capacity building in accordance with Article 28(6), which shall include relevant activities, resources and services to promote Copernicus, Copernicus data and Copernicus Services, as well as related downstream applications and their development at all levels to maximise socio-economic benefits, as referred to in Article 4(1), as well as the collection and analysis of Copernicus users' needs.
5. 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 international agreements and coordination processes.

## CHAPTER II

**Eligible actions**

## Article 50

**Eligible actions for data acquisition**

Eligible actions under Copernicus shall cover:

- (a) actions to provide enhanced continuity of existing Copernicus Sentinel missions and to develop, launch, maintain and operate further Copernicus Sentinels expanding the observation scope, giving priority in particular to observation capacities for monitoring anthropogenic CO<sub>2</sub> and other greenhouse gas emissions, allowing for monitoring polar regions and enabling innovative environmental applications in agriculture, forest, water and marine resources management, and cultural heritage;
- (b) actions to provide access to Copernicus third-party data and information necessary to generate Copernicus Services or for use by the Union's institutions, agencies, decentralised services and, where appropriate and cost-effective, national or regional public bodies;
- (c) actions to provide and coordinate access to Copernicus in-situ and other ancillary data necessary for the generation, calibration and validation of Copernicus data and Copernicus information, including where appropriate and cost-effective the use of existing national capacities and avoiding duplications.

## Article 51

**Eligible actions for Copernicus services**

1. Eligible actions under the Copernicus Services shall include:

- (a) environmental monitoring, reporting and compliance assurance services covering:
  - (i) atmosphere monitoring on a global level to provide information on air quality, with a particular focus at European level, and on the composition of the atmosphere;
  - (ii) marine environment monitoring to provide information on the state and dynamics of ocean, sea and coastal ecosystems, their resources and use;
  - (iii) land monitoring and agriculture to provide information on land cover, land use and land use change, cultural heritage sites, ground motion, urban areas, inland water quantity and quality, forests, agriculture and other natural resources, biodiversity and cryosphere;
  - (iv) climate change monitoring to provide information on anthropogenic CO<sub>2</sub> and other greenhouse gas emissions and absorptions, essential climate variables, climate reanalyses, seasonal forecasts, climate projections and attribution, information on the changes in the polar regions and the Arctic, as well as indicators at relevant temporal and spatial scales;
- (b) emergency management service to provide information in support of and in coordination with public authorities concerned with civil protection, 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 within the Union and at its external borders, maritime surveillance, Union external action responding to security challenges facing the Union and Common Foreign and Security Policy objectives and actions.

2. The Commission, supported where relevant by external independent expertise, shall ensure the relevance of the Copernicus Services by:

- (a) validating the technical feasibility and fitness for purpose of the requirements expressed by the user communities;
- (b) assessing the means and solutions, proposed or executed, to meet the requirements of the user communities and the objectives of the Programme.

*Article 52***Eligible actions for data and information access and distribution**

1. Copernicus shall include actions to provide enhanced 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 considered to be security sensitive within the meaning of Articles 12 to 16 of Delegated Regulation (EU) No 1159/2013, 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 53***Copernicus data and Copernicus information policy**

1. Copernicus data and Copernicus information shall be provided to Copernicus 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, and 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:
    - (i) the formats, timeliness and dissemination characteristics of Copernicus data and Copernicus information shall be pre-defined;
    - (ii) the licensing conditions of Copernicus third-party data and information used in the production of Copernicus information shall be abided by where applicable;
    - (iii) the security limitations resulting from the general security requirements referred to in Article 34(2);
    - (iv) the protection against the risk of disruption of the system producing or making available Copernicus data and Copernicus information and of the data itself shall be ensured;
    - (v) 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 to supplement the specific provisions set out in paragraph 1 of this Article as regards the specifications and conditions and procedures for the access to and use of Copernicus data and Copernicus information.
3. Where imperative grounds of urgency so require, the procedure provided for in Article 106 shall apply to delegated acts adopted pursuant to this Article.
4. The Commission shall issue licences 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 adopted pursuant to paragraph 2.

## TITLE VIII

**OTHER COMPONENTS OF THE PROGRAMME**

## CHAPTER I

**SSA**

## Section 1

**SST sub-component***Article 54***Scope of SST sub-component**

1. The SST sub-component shall support the following activities:
  - (a) the establishment, development and operation of a network of ground-based and space-based SST sensors of the Member States, including sensors developed through ESA or the Union private sector, and nationally operated Union sensors, to survey and track space objects and to produce a European catalogue of space objects;
  - (b) the processing and analysis of SST data at national level in order to produce SST information and SST services referred to in Article 55(1);
  - (c) the provision of the SST services referred to in Article 55(1) to the SST users referred to in Article 56;
  - (d) monitoring and seeking synergies with initiatives promoting development and deployment of technologies for spacecraft disposal at the end of operational lifetime and of technological systems for the prevention and elimination of space debris, as well as with the international initiatives in the area of the space traffic management.
2. The SST sub-component shall also provide technical and administrative support to ensure the transition between the Programme and the SST support framework established by Decision No 541/2014/EU.

*Article 55***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 development of activities in preparation of:
    - (i) space debris mitigation in order to reduce their generation; and
    - (ii) space debris remediation by managing the existing space debris.
2. SST services shall be free of charge, available at any time without interruption and adapted to the needs of the SST users referred to in Article 56.
3. Member States participating in the SST sub-component, the Commission and, where relevant, the SST Front desk referred to in Article 59(1), shall not be held liable for:

- (a) damage resulting from the lack of or interruption in the provision of SST services;
- (b) delay in the provision of SST services;
- (c) inaccuracy of the information provided through the SST services;
- (d) action undertaken in response to the provision of SST services.

#### Article 56

#### **SST users**

1. Union SST users shall comprise:

- (a) SST core users: Member States, the EEAS, the Commission, the Council, the Agency as well as public and private spacecraft owners and operators established in the Union;
- (b) SST non-core users: other public and private entities established in the Union.

SST core users shall have access to all SST services referred to in Article 55(1).

SST non-core users may have access to SST services referred to in points (b), (c) and (d) of Article 55(1).

2. International SST users shall comprise third countries, international organisations which do not have their headquarters in the Union and private entities which are not established in the Union. They shall have access to SST services referred to in point (d) of Article 55(1) under the following conditions:

- (a) third countries and international organisations which do not have their headquarters in the Union may have access to SST services pursuant to Article 8(2);
- (b) private entities which are not established in the Union may have access to SST services subject to an international agreement concluded by the Union, in accordance with Article 8(2), with the third country in which they are established granting them that access.

No international agreement shall be required to access publicly available SST services referred to in points (a), (b) and (c) of Article 55(1).

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

#### Article 57

#### **Participation of Member States in the SST sub-component**

1. Member States wishing to participate in the provision of SST services referred to in Article 55(1) covering all orbits shall submit a single joint proposal to the Commission demonstrating compliance with the following criteria:

- (a) ownership of, or access to, either adequate SST sensors available for the SST sub-component and human resources to operate them, or adequate operational analysis and data processing capabilities specifically designed for SST and available for the SST sub-component;
- (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 No 541/2014/EU, for the implementation of the activities set out in Article 54 of this Regulation;
- (d) the distribution of the different activities among the Expert Teams as designated pursuant to Article 58 of this Regulation;
- (e) the rules on the sharing of data necessary for achieving the objectives referred to in Article 4 of this Regulation.

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

As concerns criteria set out in points (c), (d) and (e) of the first subparagraph, all Member States wishing to participate in the provision of SST services shall demonstrate compliance with those criteria collectively.

2. The criteria referred to in points (a) and (b) of the first subparagraph of paragraph 1 of this Article shall be deemed to be fulfilled by the Member States participating in the SST sub-component whose designated national entities are members of the Consortium established under Article 7(3) of Decision No 541/2014/EU as of 12 May 2021.

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 five Member States may submit a new joint proposal to the Commission, demonstrating compliance with the criteria referred to in paragraph 1.

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

#### Article 58

### **Organisational framework of Member States' participation in the SST sub-component**

1. Each Member State which has submitted a joint proposal that has been found compliant by the Commission in accordance with Article 57(1) or that has been selected by the Commission pursuant to the procedure referred to in Article 57(3) shall designate a Constituting National Entity established on its territory to represent it. The designated Constituting National Entity shall be a Member State public authority or a body entrusted with the exercise of such public authority.

2. The Constituting National Entities designated pursuant to paragraph 1 of this Article shall conclude an agreement creating an SST partnership ('SST partnership agreement') and laying down the rules and mechanisms for their cooperation in implementing the activities referred to in Article 54. In particular, the SST partnership agreement shall include the elements mentioned in points (c), (d) and (e) of Article 57(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 of this Article. The Commission may adopt, by means of implementing acts, the multiannual plan and the key performance indicators. Those implementing acts shall be adopted 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, without affecting Member States' prerogatives in the area of national security.

5. Member States participating in the SST sub-component shall perform security accreditation on the basis of the general security requirements referred to in Article 34(2).

6. Expert Teams shall be designated by the Member States participating in the SST sub-component 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 designated them and may include experts from every Constituting National Entity.

7. The Constituting National Entities and Expert Teams shall ensure the protection of SST data, SST information and SST services.

8. The Commission shall adopt, by means of implementing acts, detailed rules on the functioning of the organisational framework of the participation of Member States in the SST sub-component. Those rules shall also cover for the inclusion at a later stage of a Member State in the SST partnership by becoming a party to the SST partnership agreement referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

#### *Article 59*

##### **SST Front desk**

1. The Commission, taking into account the recommendation of the Constituting National Entities, shall select the SST Front Desk on the basis of the best expertise in security issues and in service provision. The SST Front desk shall:
  - (a) provide the necessary secure interfaces to centralise, store and make available SST information to SST users referred to in Article 56, ensuring their adequate handling and traceability;
  - (b) provide reporting on the performance of the SST services to the SST partnership referred to in Article 58(2) and the Commission;
  - (c) gather the necessary feedback for the SST partnership referred to in Article 58(2) to ensure the required alignment of services with SST users' expectations;
  - (d) support, promote and encourage the use of the SST services.
2. The Constituting National Entities shall conclude the necessary implementing arrangements with the SST Front Desk.

#### Section 2

##### **SWE and NEO sub-components**

#### *Article 60*

##### **SWE activities**

1. The SWE sub-component may support the following activities:
  - (a) the assessment and identification of the needs of the users in the sectors identified in point (b) of paragraph 2, with the aim of setting out SWE services to be provided;
  - (b) the provision of SWE services to the SWE services' users, according to the identified users needs and technical requirements.
2. SWE services shall be available at any time without interruption. The Commission shall select those services, by means of implementing acts, in accordance with the following rules:
  - (a) the Commission shall prioritise the SWE services to be provided at Union level according to the needs of SWE users, the technological readiness of the services and the result of a risk assessment;
  - (b) SWE services may contribute to civil protection activities and to the protection of a wide range of sectors such as space, transport, GNSSs, electric power grids and communications.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 107(2).

3. The selection of public or private entities to provide SWE services shall be performed through a call for tenders.



*Article 61***NEO activities**

1. The NEO sub-component may support the following activities:
  - (a) the mapping of Member States' capacities for detecting and monitoring near-Earth objects;
  - (b) the promotion of the networking of Member States' facilities and research centres;
  - (c) the development of the service referred to in paragraph 2;
  - (d) the development of a routine rapid response service able to characterise newly discovered near-Earth objects;
  - (e) the creation of a European catalogue of near-Earth objects.
2. The Commission, in its field of competence, may put in place procedures to coordinate, with the involvement of the appropriate UN bodies, the actions of the Union and national public authorities concerned with civil protection in the event a near-Earth object is found to be approaching Earth.

*CHAPTER II***GOVSATCOM***Article 62***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, with appropriate security requirements. This component comprises:

- (a) the development, construction and the operations of the ground segment infrastructure; referred to in Article 67 and possible space infrastructure referred to in Article 102(2);
- (b) the procurement of governmental and commercial satellite communication capacities, services, and user equipment necessary for the provision of GOVSATCOM services;
- (c) measures necessary to further interoperability and standardisation of GOVSATCOM user equipment.

*Article 63***GOVSATCOM capacities and services**

1. The provision of GOVSATCOM capacities and services shall be ensured as laid down in the service portfolio referred to in paragraph 3 of this Article and in accordance with the operational requirements referred to in paragraph 2 of this Article, GOVSATCOM specific security requirements referred to in Article 34(2) and within the limits of the sharing and prioritisation rules referred to in Article 66.

Access to GOVSATCOM capacities and services shall be free of charge for institutional and governmental GOVSATCOM users unless the Commission defines a pricing policy in accordance with Article 66(2).

2. The Commission shall adopt, by means of implementing acts, the operational requirements for GOVSATCOM services, in the form of technical specifications for GOVSATCOM use-cases related in particular 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 GOVSATCOM users and shall take 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 GOVSATCOM services, in the form of a list of categories of satellite communication capacities and services and their attributes, including geographical coverage, frequency, bandwidth, user equipment, and security features. The service portfolio shall take into consideration existing commercially available services in order not to distort competition in the internal market. Those implementing acts shall be regularly updated and shall be based on the operational and security requirements referred to in paragraph 1 of this Article and shall prioritise services provided to users according to their relevance and criticality. 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 GOVSATCOM capacities and services listed in the service portfolio referred to in paragraph 3 of this Article. That access shall be provided through the GOVSATCOM Hubs referred to in Article 67(1).

#### Article 64

### **Providers of satellite communication capacities and services**

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

- (a) GOVSATCOM participants as referred to in Article 68; and
- (b) legal persons duly accredited to provide satellite communication capacities or services in accordance with the security accreditation procedure referred to in Article 37, which shall be done in compliance with the general security requirements for the GOVSATCOM component, as referred to in Article 34(2).

#### Article 65

### **GOVSATCOM users**

1. The following entities may be GOVSATCOM users provided that they are entrusted with tasks relating to the supervision and management of emergency and security-critical missions, operations and infrastructures:

- (a) a Union or Member State public authority or a body entrusted with the exercise of such public authority;
- (b) a natural or legal person acting on behalf of and under the control of an entity referred to under point (a) of this paragraph.

2. GOVSATCOM users referred to in paragraph 1 of this Article shall be duly authorised by a GOVSATCOM participant referred to in Article 68 to use GOVSATCOM capacities and services and shall comply with the general security requirements referred to in Article 34(2), defined for GOVSATCOM.

#### Article 66

### **Sharing and prioritisation**

1. Pooled satellite communication capacities, services and user equipment shall be shared and prioritised between GOVSATCOM participants referred to in Article 68 on the basis of an analysis of safety and security risks of the users. Such analysis shall take into account existing communication infrastructure and availability of existing capabilities as well as their geographical coverage, at Union and national level. That sharing and prioritisation shall prioritise GOVSATCOM users according to their relevance and criticality.

2. The Commission shall adopt, by means of implementing acts, the detailed rules on the sharing and prioritisation of satellite communication capacities, services, and user equipment, taking into account expected demand for the different GOVSATCOM use-cases, the analysis of security risks for those use-cases and, where appropriate, cost-efficiency.

By defining a pricing policy in those rules, the Commission shall ensure that the provision of GOVSATCOM capacities and services does not distort the market and that there is no shortage of GOVSATCOM capacities.

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 GOVSATCOM participant.

#### *Article 67*

### **Ground segment infrastructure and operation**

1. The ground segment shall include infrastructure necessary to enable the provision of services to GOVSATCOM users in accordance with Article 66, particularly the GOVSATCOM Hubs which shall be procured under this component to connect GOVSATCOM users with providers of satellite communication capacities and services. The ground segment and its operation shall comply with the general security requirements referred to in Article 34(2), defined for GOVSATCOM.

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), and shall be without prejudice to the right of a Member State to decide not to host any such infrastructure.

#### *Article 68*

### **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, ground segment sites or part of the ground segment facilities.

Where the Council, the Commission or the EEAS authorise GOVSATCOM users, or provide satellite communication capacities, ground segment sites or part of the ground segment facilities, on the territory of a Member State, such authorisation or provision shall not contravene neutrality or non-alignment provisions stipulated in the constitutional law of that Member State.

2. Union agencies may become GOVSATCOM participants only insofar as necessary to fulfil their tasks and in accordance with detailed rules laid down in an administrative arrangement concluded between the agency concerned and the Union institution that supervises it.

3. Third countries and international organisations may become GOVSATCOM participants in accordance with Article 7.

4. Each GOVSATCOM participant shall designate one competent GOVSATCOM authority.

5. 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 69***Monitoring of supply and demand for GOVSATCOM**

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

## 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 their national laws. 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 and local offices of the Agency**

1. The seat of the Agency is located in Prague, Czechia.
2. Staff of the Agency may be located in one of the Galileo or EGNOS ground-based centres referred to in Implementing Decision (EU) 2016/413 or (EU) 2017/1406, to execute Programme activities provided for in the relevant agreement.
3. Depending on the needs of the Programme, local offices may be established in the Member States in accordance with the procedure laid down in Article 79(2).

## 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 and the Security Accreditation Board 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 of the Staff Regulations of Officials of the European Union ('Staff Regulations') 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 three 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 ESA shall be invited to attend the meetings of the Administrative Board as observers for matters related directly to them, 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 member. The alternate member shall represent the member in his or her absence.
4. Each Member State shall nominate a member and an alternate member of the Administrative Board taking account of their knowledge in the field of the Agency's tasks and relevant managerial, administrative and budgetary skills. In order to ensure continuity of the Administrative Board's activities, the European Parliament, the Commission and the Member States shall endeavour to limit changes of their representatives on the Administrative Board. 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 alternates shall be four years and shall be renewable.
6. Where appropriate, the participation of representatives of third countries or international organisations and the conditions for such participation shall be established in the agreements referred to in Article 98 and shall comply with the rules of procedure of the Administrative Board. Those representatives shall have no voting rights.

#### *Article 74*

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

1. The Administrative Board shall elect a Chairperson and a Deputy Chairperson from among its members having 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, and shall be renewable once. Each term of office shall end when 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 of the Administrative Board, unless the Chairperson decides otherwise. The Executive Director shall not have the right to vote.
3. The Administrative Board shall hold ordinary meetings on a regular basis, at least 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. Where discussion concerns the use of sensitive national infrastructure, the representatives of Member States and the representatives of the Commission may attend the meetings and deliberations of the Administrative Board, on a need-to-know basis. However, only those representatives of Member States which possess such infrastructure and the representatives of the Commission are to take part in voting. Where the Chairperson of the Administrative Board does not represent one of the Member States which possess such infrastructure, he or she shall be replaced by the representatives of Member States which possess such infrastructure. The rules of procedure of the Administrative Board shall set out the situations in which this procedure may apply.
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, work programmes, approval of arrangements referred to in Article 98(2), security rules of the Agency, adoption of the rules of procedure, for the establishment of local offices and for the approval of the hosting agreements referred to in Article 92.

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. Decisions based on point (a) of Article 77(2), except for matters under Chapter II of Title V, or on Article 77(5), 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 as well as any quorum requirements as appropriate.

#### 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 that end. This shall not affect 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) adopt, by 30 June of the first year of the multiannual financial framework provided for under Article 312 TFEU, the multiannual work programme of the Agency for the period covered by that multiannual financial framework after incorporating, without any change, the section drafted by the Security Accreditation Board in accordance with point (a) of Article 80 of this Regulation and after having received the Commission's opinion. The European Parliament shall be consulted on the multiannual work programme, provided that the purpose of the consultation is an exchange of views and the outcome is not binding on the Agency;
- (c) perform the budgetary functions laid down in Article 84(5), (6), (10) and (11);
- (d) oversee the operation of the Galileo Security Monitoring Centre as referred to in point (b) of Article 34(5);
- (e) adopt arrangements to implement Regulation (EC) No 1049/2001 of the European Parliament and of the Council <sup>(46)</sup>, in accordance with Article 94 of this Regulation;
- (f) approve the arrangements referred to in Article 98, after consulting the Security Accreditation Board on the provisions of the arrangements concerning security accreditation;
- (g) adopt the technical procedures necessary to perform its tasks;
- (h) 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 to the European Parliament, the Council, the Commission and the Court of Auditors by 1 July each year;
- (i) 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 OLAF and all internal or external audit reports, and forward all information relevant to the outcome of the evaluation procedures to the budgetary authority;
- (j) be consulted by the Executive Director on the FPPA referred to in Article 31 and contribution agreements referred to in Article 27(3) and Article 29(5) before they are signed;
- (k) adopt the security rules of the Agency as referred to in Article 96;
- (l) approve an anti-fraud strategy, on the basis of a proposal from the Executive Director;
- (m) where necessary and on the basis of proposals from the Executive Director, approve the organisational structures referred to in point (l) of Article 79(1);
- (n) appoint an Accounting Officer, who may be the Commission's Accounting Officer, who shall be:
  - (i) subject to the Staff Regulations and the Conditions of Employment of Other Servants of the Union ('Conditions of Employment'), laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(47)</sup>; and
  - (ii) totally independent in the performance of his or 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 on the appointing authority and by the Conditions of Employment 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 and on Article 6 of the Conditions of Employment 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 sub-delegate those powers.

<sup>(46)</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).

<sup>(47)</sup> OJ L 56, 4.3.1968, p. 1.

In application of the second subparagraph of this paragraph, where exceptional circumstances so require, the Administrative Board may, by decision, temporarily suspend the delegation of the powers of the appointing authority to the Executive Director and those subdelegated by the Executive Director 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 of this paragraph, 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 under 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 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 of this Regulation and the relevant disciplinary measures to be taken.

The Administrative Board 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 under 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 his or her term of office pursuant to Article 89.

5. Except in respect of activities undertaken in accordance with Chapter II of Title V, 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.

#### *Article 78*

### **Executive Director**

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

This paragraph shall not affect the autonomy or independence of the Security Accreditation Board and of the Agency staff under its supervision in accordance with Article 82 and the powers granted to the Security Accreditation Board and the Chairperson of the Security Accreditation Board in accordance with Articles 38 and 81 respectively.

2. Without prejudice to the powers of the Commission and the Administrative Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.

#### *Article 79*

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

1. The Executive Director shall perform the following tasks:

- (a) represent the Agency and sign the agreements referred to in Article 27(3), Article 29(5) and Article 31;
- (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 75(2);
- (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 under 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 to ensure the functioning of the Agency in accordance with this Regulation, including the adoption of internal administrative instructions and the publication of notices;
- (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 (CFSP) 2021/698 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 under 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 Programme's various components;
- (m) with regard to the Agency's staff, exercise the powers of the appointing authority referred to in the first subparagraph of Article 77(3) to the extent that those powers have been delegated to him or her in accordance with the second subparagraph of Article 77(3);
- (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 38(3) and Article 82(3) and the Chairperson of the Security Accreditation Board;
- (o) with the exception of the section of the action plan concerning the activities under Chapter II of Title V, prepare an action plan for ensuring the follow-up of the findings and recommendations of the evaluations referred to in Article 102 and, after having incorporated, without any change, the section drafted by the Security Accreditation Board, submit 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) recover sums unduly paid where irregularities are detected and, where appropriate, apply 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 or her duties when invited to do so; the Council may invite the Executive Director to report on the performance of his or her duties.

2. The Executive Director shall decide whether it is necessary to locate one or more members of 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. Where possible, the impact in terms of staff allocation and budget shall be incorporated in the draft single programming document referred to in Article 84(6).

#### Article 80

### Management tasks of the Security Accreditation Board

Apart from the tasks referred to in Article 38, 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 under 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 under 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 under 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 Chairperson 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 point (i) of Article 37.

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. A member of the Agency's staff under the supervision of the Security Accreditation Board shall not 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 under 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 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 under 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 under 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 under Chapter II of Title V, and submit it to the Executive Director in good time;
- (f) represent the Agency for the activities and decisions under Chapter II of Title V;
- (g) with regard to the Agency's staff involved in the activities under Chapter II of Title V, exercise 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 under 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, the revenue of the Agency shall include a Union contribution entered in Union budget in order to ensure a balance between revenue and expenditure. The Agency may receive ad hoc grants from the Union budget.
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 38(3) and Article 82(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 under 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, based on the draft statement of estimates of revenue and expenditure and in close cooperation with the Security Accreditation Board for activities under Chapter II of Title V, the Administrative Board shall draw up the statement of estimates of revenue and expenditure for the Agency for the next financial year.
6. By 31 January each year, the Administrative Board shall forward a draft single programming document including inter alia a statement of estimates, a draft establishment plan and 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. The Commission is to submit the draft general budget to the budgetary authority in accordance with Article 314 TFEU.
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, the budget 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 would 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. Those rules shall 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 IV

***The Agency's human resources****Article 88***The Agency's staff**

1. The Staff Regulations, the Conditions of Employment 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 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 handle.
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 point (i) of Article 37.

*Article 89***Appointment and term of office of the Executive Director**

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

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 at least three 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 contract 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 five 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 shall 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 their 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 under Chapter II of Title V.

#### Article 90

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

The Agency may employ national experts from Member States, as well as, pursuant to Article 98(2), national experts from third countries and international organisations participating in the work of the Agency. Those experts shall have security clearance appropriate to the classification of the information they handle, pursuant to Article 43(2). The Staff Regulations and the Conditions of Employment shall not apply to such staff.

## CHAPTER V

**Other provisions**

## Article 91

**Privileges and immunities**

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

## Article 92

**Headquarters agreement and local offices hosting agreements**

1. Necessary arrangements concerning the accommodation to be provided for the Agency in the host Member State where the seat of the Agency is located 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. The headquarters agreement shall be concluded between the Agency and the Member State concerned where the seat of the Agency is located, after obtaining the approval of the Administrative Board.
2. Where necessary for the operation of a local office of the Agency, established in accordance with Article 79(2), a hosting agreement between the Agency and the Member State concerned where the local office is located shall be concluded after obtaining the approval of the Administrative Board.
3. The Agency's host Member States 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. Council Regulation No 1 <sup>(48)</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 pursuant to 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 TFEU respectively.

<sup>(48)</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

*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, 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>(49)</sup> and adopt appropriate provisions applicable to all employees of the Agency using the model decision 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 that 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 Regulation (Euratom, EC) No 2185/96 and in Regulation (EU, Euratom) No 883/2013.
4. 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. This shall not affect paragraphs 1, 2 and 3.

*Article 96***Protection of EUCI 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 accordance with Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444.

*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 of the European Union 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 of the European Union 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 applicable to them.

*Article 98***Cooperation with third countries and international organisations**

1. The Agency shall be open to the participation of third countries and international organisations that have entered into international agreements with the Union to this effect.

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<sup>(49)</sup> OJ L 136, 31.5.1999, p. 15.



2. Under the relevant provisions of the agreements referred to in paragraph 1 of this Article and in Article 43, arrangements shall be developed specifying, in particular, the nature, extent and manner in which the third countries and international organisations concerned are to 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. When relevant, they shall also include provisions on the exchange and protection of classified information with third countries and international organisations. Those provisions shall be subject to the Commission's prior approval.

3. The Administrative Board shall adopt a strategy on relations with third countries and international organisations, in the framework of the international agreements referred to in paragraph 1, 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 interests which might be considered prejudicial to their independence. Those declarations shall be:

- (a) accurate and complete;
- (b) made in writing upon the entry into service of the persons concerned;
- (c) renewed annually; and
- (d) 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, if such an interest exists, shall abstain from participating in the discussion of and from 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 shall be specific and fully separate work programmes for each of the Programme's components. Work programmes shall set out the actions and associated budget required to meet the objectives of the Programme and, where applicable, the overall amount reserved for blending operations.

The Commission shall adopt work programmes by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

*Article 101***Monitoring and reporting**

1. Indicators to report on progress of the Programme towards the achievement of the general and specific objectives laid down in Article 4 are set out in the Annex.
2. To ensure the effective assessment of the Programme's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts, in accordance with Article 105, to amend the Annex with regard to the indicators where considered necessary as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
3. Where imperative grounds of urgency so require, the procedure provided for in Article 106 shall apply to delegated acts adopted pursuant to this Article.
4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the Programme 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 appropriate, on Member States.

5. For the purposes of paragraph 1, the recipients of Union funds shall 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. By 30 June 2024, and every four years thereafter, the Commission shall evaluate the implementation of the Programme. The evaluation shall cover all of the Programme's components and actions. It shall assess:
  - (a) the performance of the services provided under the Programme;
  - (b) the evolution of needs of the users of the Programme; and
  - (c) when evaluating the implementation of SSA and GOVSATCOM, the evolution of available capacities for sharing and pooling, or, when evaluating the implementation of Galileo, Copernicus and EGNOS, the evolution of data and services offered by competitors.

For each of the Programme's components, the evaluation shall, on the basis of a cost-benefit analysis, also assess the impact of the evolutions referred to in point (c) of the first subparagraph, including the need for changing the pricing policy or the need for additional space or ground infrastructure.

If necessary, the evaluation shall be accompanied by an appropriate proposal.

3. 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.
4. The entities involved in the implementation of this Regulation shall provide the Commission with the data and information necessary for the evaluation referred to in paragraph 1.
5. By 30 June 2024, and every four years thereafter, the Commission shall assess the Agency's performance, in relation to its objectives, mandate, and tasks, in accordance with Commission guidelines. The evaluation shall be based on a cost-benefit analysis. 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. The Commission may also evaluate the Agency's performance to assess the possibility to entrust it with additional tasks, in accordance with Article 29(3). If necessary, the evaluation shall be accompanied by an appropriate proposal.

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 by 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**

1. All personal data handled in the context of the tasks and activities provided for in this Regulation, including by the Agency, shall be processed in accordance with the applicable law on personal data protection, in particular Regulations (EU) 2016/679 <sup>(50)</sup> and (EU) 2018/1725 <sup>(51)</sup> of the European Parliament and of the Council.
2. The Administrative Board shall establish measures for the application of Regulation (EU) 2018/1725 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 53 and 101 shall be conferred on the Commission until 31 December 2028.

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<sup>(50)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(51)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

3. The delegation of power referred to in Articles 53 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 of 13 April 2016 on Better Law-Making.

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 53 and 101 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and 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. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 105(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

#### Article 107

#### **Committee procedure**

1. The Commission shall be assisted by the Programme committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

The Programme committee shall meet in specific different configurations as follows:

- (a) Galileo and EGNOS;
- (b) Copernicus;
- (c) SSA;
- (d) GOVSATCOM;
- (e) Security configuration: all security aspects of the Programme, without prejudice to the role of the Security Accreditation Board; representatives of ESA and the Agency may be invited to participate as observers; the EEAS shall also be invited to assist;
- (f) Horizontal configuration: strategic overview of the implementation of the Programme, coherence across the Programme's different components, cross-cutting measures and budget reallocation as referred to in Article 11.

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.

4. Where the Programme committee delivers no opinion on the draft implementing act referred to in Article 34(2) of this Regulation, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

5. In accordance with international agreements concluded by the Union, representatives of third countries or international organisations may be invited as observers in the meetings of the Programme committee under the conditions laid down in its rules of procedure, taking into account the security of the Union.

6. The Programme committee shall, in accordance with its rules of procedure, set up the 'User Forum', as a working group to advise the Programme committee on user requirements aspects, evolution of the services and user uptake. The User Forum shall aim to guarantee a continuous and effective involvement of users and meet in specific configurations for each of the Programme's components.

## TITLE XII

### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 108*

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

1. The recipients of Union funding shall acknowledge the origin of those funds 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, to actions taken pursuant to the Programme and to the results obtained.

Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities 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 29. Such 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 initiated pursuant to Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014, and Decision No 541/2014/EU, which shall continue to apply to those actions until their closure. In particular, the Consortium established under Article 7(3) of Decision No 541/2014/EU shall provide SST services until three months after the signature by the Constituting National Entities of the SST partnership agreement provided for in Article 58 of this Regulation.

2. The financial envelope for the Programme may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted pursuant to Regulations (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU.

3. If necessary, appropriations may be entered in the Union budget beyond 2027 to cover the expenses necessary to fulfil the objectives provided for in Article 4, to enable the management of actions not completed by the end of the Programme, as well as expenses covering critical operational activities and services provision, including through the FPPA and contribution agreements.

*Article 111*

**Entry into force and application**

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

It shall apply from 1 January 2021.

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

Done at Brussels, 28 April 2021.

*For the European Parliament*  
*The President*  
D. M. SASSOLI

*For the Council*  
*The President*  
A. P. ZACARIAS

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## ANNEX

## KEY INDICATORS

Key indicators shall structure the monitoring of the Programme performance towards its objectives referred to in Article 4, with a view to minimising administrative burdens and costs.

1. To that end, for annual reporting, data shall be collected as regards the following set of key indicators for which implementation details, such as metrics, figures and associated nominal values and thresholds, including quantitative data and qualitative case studies, according to applicable mission requirements and expected performance, shall be defined in the agreements concluded with the entrusted entities:

- 1.1. Specific objective referred to in point (a) of Article 4(2)

Indicator 1: Accuracy of navigation and timing services provided by Galileo and EGNOS separately

Indicator 2: Availability and continuity of services provided by Galileo and EGNOS separately

Indicator 3: EGNOS services geographical coverage and number of EGNOS procedures published (both APV-I and LPV-200)

Indicator 4: Union user satisfaction with respect to Galileo and EGNOS services

Indicator 5: Share of Galileo and EGNOS enabled receivers in the worldwide and the EU Global Navigation Satellite Systems/ Satellite Based Augmentation System (GNSS/SBAS) receivers market.

- 1.2. Specific objective referred to in point (b) of Article 4(2)

Indicator 1: Number of Union users of Copernicus Services, Copernicus data, and Data and Information Access Services (DIAS) providing, where possible, information such as the type of user, geographical distribution and sector of activity

Indicator 2: Where applicable, number of activations of Copernicus Services requested or served

Indicator 3: Union user satisfaction with respect to Copernicus Services and DIAS

Indicator 4: Reliability, availability and continuity of the Copernicus Services and Copernicus data stream

Indicator 5: Number of new information products delivered in the portfolio of each Copernicus Service

Indicator 6: Amount of data generated by the Copernicus Sentinels

- 1.3. Specific objective referred to in point (c) of Article 4(2)

Indicator 1: Number of users of SSA component providing, where possible, information such as the type of user, geographical distribution and sector of activity

Indicator 2: Availability of Services

- 1.4. Specific objective referred to in point (d) of Article 4(2)

Indicator 1: Number of GOVSATCOM users providing, where possible, information such as the type of user, geographical distribution and sector of activity

Indicator 2: Availability of Services

- 1.5. Specific objective referred to in point (e) of Article 4(2)  
Indicator 1: Number of launches for the Programme (including numbers by type of launchers)
  - 1.6. Specific objective referred to in point (f) of Article 4(2)  
Indicator 1: Number and location of space hubs in the Union  
Indicator 2: Share of SMEs established in the Union as a proportion of the total value of the contracts relating to the Programme
  2. The evaluation referred to in Article 102 shall take into account additional elements such as:
    - 2.1. Performance of competitors in the areas of navigation and Earth observation
    - 2.2. User uptake of Galileo and EGNOS services
    - 2.3. Integrity of EGNOS services
    - 2.4. Uptake of Copernicus Services by Copernicus core users
    - 2.5. Number of Union or Member State policies exploiting or benefiting from Copernicus
    - 2.6. Analysis of the autonomy of the SST sub-component and of the level of independence of the Union in this area
    - 2.7. State-of-play of networking for the activities of NEO sub-component
    - 2.8. Assessment of GOVSATCOM capacities as regards user needs as referred to in Articles 69 and 102
    - 2.9. User satisfaction of the SSA and GOVSATCOM services
    - 2.10. Share of Ariane and Vega launches in the total market based on publicly available data
    - 2.11. Development of the downstream sector measured, when available, by the number of new companies using Union space data, information and services, jobs created and turnover, by Member State, using surveys of the Commission (Eurostat) when available
    - 2.12. Development of the Union space upstream sector measured, when available, by number of jobs created and turnover by Member State and the global market share of European space industry, using surveys of the Commission (Eurostat) when available
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