



headquarters

Proposal by ESA's Director-General for certain amendments to European Commission's proposal for a Regulation establishing the space programme of the Union and the European Space Agency for the Space Programme ref. COM(2018) 447 final

Commission proposal

ESA proposal

(In **bold**: addition of text; ~~strikethrough~~: deletion of text)

Justification of ESA proposal

.....
Recital (4)

(4) The Union needs to ensure its freedom of action and autonomy to have access to space and be able to use it safely. It is therefore essential that it maintains autonomous, reliable and cost effective access to space, especially as regards critical infrastructure and technology, public security and the security of the Union and its Member States. The Commission should therefore have the possibility to aggregate launch services at European level, both for its own needs and, at their request, for those of other entities, including Member States, in conformity with the provisions of Article 189(2) of the Treaty.

(4) The Union needs to ensure **Europe's** freedom of action and autonomy to have access to space and be able to use it safely. It is therefore essential that it maintains autonomous, reliable and cost effective access to space, especially as regards critical infrastructure and technology, public security and the security of the Union and its Member States. The Commission should therefore have the possibility to aggregate launch services at European level, ~~both~~ for **the European Union's space programme** ~~its own needs and, at their request, for those of other entities, including Member States,~~ in conformity with the provisions of Article 189(2) of the Treaty.

The aggregation beyond EU needs should be performed jointly by the signatories of the Joint Statement on European Institutional Exploitation, not by the Commission alone.

Recital (6)

Owing to its coverage and its potential to help resolve global challenges, the space programme of the Union ('Programme') has a strong international dimension. The Commission should therefore be enabled to manage, on behalf of the Union, and coordinate activities on the international scene on behalf of the Union, in particular to defend the interests of the Union and its Member States in international fora, including in the area of frequencies, to promote the Union's technology and industry, and to encourage cooperation in the field of training, bearing in mind the need to ensure the reciprocity of the rights and obligations of the parties. It is particularly important that the Union be represented by the Commission in the bodies of the

International Cospas-Sarsat Programme or in relevant sectoral UN bodies including the Food and Agriculture Organisation, as well as the World Meteorological Organisation.

Owing to its coverage and its potential to help resolve global challenges, the space programme of the Union ('Programme') has a strong international dimension. **For what concerns this Programme**, the Commission should therefore be enabled to manage, on behalf of the Union, and coordinate activities on the international scene on behalf of the Union, in particular to defend the interests of the Union and its Member States in international fora, including in the area of frequencies, to promote the Union's technology and industry, and to encourage cooperation in the field of training, bearing in mind the need to ensure the reciprocity of the rights and obligations of the parties. It is particularly important that the Union be represented by the Commission in the bodies of the International Cospas-Sarsat Programme or in relevant sectoral UN bodies including the Food and Agriculture Organisation, as well as the World Meteorological Organisation

This is to (i) avoid overlap between the Commission's responsibilities as regards the Programme and ESA's mission as set out in Article 2 of the ESA Convention, and (ii) to ensure compliance with the Framework Agreement of 2004 between ESA and the EU.

Recital (16)

It should thus be possible to award a contract in the form of a conditional stage-payment contract, introduce an amendment, under certain conditions, in the context of its performance, or impose a minimum level of subcontracting. Lastly, given the technological uncertainties that characterise the components of the Programme, contract prices cannot always be forecast accurately and it should therefore be possible to conclude contracts without stipulating a firm fixed price and to include clauses to safeguard the financial interests of the Union.

It should thus be possible to award a contract in the form of a conditional stage-payment contract, introduce an amendment, under certain conditions, in the context of its performance, or impose a minimum level of subcontracting. Lastly, given the technological uncertainties that characterise the components of the Programme, contract prices **and the remuneration of the entrusted entities** 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.

The rules on amending public contracts should be spelled out in this Regulation, offering more flexibility than the provisions of the Financial Regulation.

Uncertainties should be considered both for direct and indirect management.

Recital (23)

(23) In accordance with the Financial Regulation, Council Regulation (EC, Euratom) No 2988/95, Council Regulation (Euratom, EC) No 2185/9612 and Council Regulation (EU) 2017/1939, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In

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Cooperation with EPPO shall always be compliant with the status of ESA as an international organisation.

particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

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Recital (27)

(27) As promoter of the Union's general interest, it falls to the Commission to implement the Programme, assume overall responsibility and promote their use. In order to optimise the resources and competences of the various stakeholders, the Commission should be able to delegate certain tasks. Moreover the Commission is the best placed to determine the main technical and operational specifications necessary to implement systems and services evolution.

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The definition of technical and operational specifications is the role of entrusted entities (i.e. the Agency and ESA).

Recital (29)

The European Space Agency is an international organisation with extensive expertise in the space domain and which entered into a Framework Agreement with the European Community in 2004. It is therefore an important partner in the implementation of the Programme, with which any appropriate relations should be established. In this regard, and in compliance with the Financial Regulation, it is important to conclude a financial framework partnership agreement with the European Space Agency that governs all financial relations between the Commission, the

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Please refer to the justification related to Article 31.3.

Agency and the European Space Agency and ensures their consistency and conform to the Framework Agreement with the European Space Agency, in particular with Article 5 thereof. However, as the European Space Agency is not a Union body and is not subject to Union law, it is essential, in order to protect the interests of the Union and its Member States, that such an agreement be conditional on the introduction of appropriate operating rules in the European Space Agency. The agreement should also contain all the clauses necessary to safeguard the Union's financial interests.

a financial framework partnership agreement with the European Space Agency that governs all financial relations between the Commission, the Agency and the European Space Agency and ensures their consistency and conform to the Framework Agreement with the European Space Agency, in particular with Article 5 thereof **recalling that . However, as the European Space Agency is not a Union body and is not subject to Union law, it is essential, in order to protect the interests of the Union and its Member States, that such an agreement be conditional on the introduction of appropriate operating rules in the European Space Agency. The agreement should also contain all the clauses necessary to safeguard the Union's financial interests.**

Recital (31)

(31) To structurally embed the user representation in the governance of GOVSATCOM and to aggregate user needs and requirements across national and civil-military boundaries, the relevant Union entities with close user-ties, such as the European Defence Agency, the European Border and Coast Guard Agency, the European Maritime Safety Agency, the European Fisheries Control Agency, the

(31) To structurally embed the user representation in the governance of GOVSATCOM and to aggregate user needs and requirements across national and civil-military boundaries, the relevant Union entities with close user-ties, such as the European Defence Agency, the European Border and Coast Guard Agency, the European Maritime Safety Agency, the European Fisheries Control Agency, the European Union Agency for Law Enforcement

Due to its participation to the Experts Group and its contribution to the GOVSATCOM High Level Civil-Military User Needs document, ESA should be listed here as well.

European Union Agency for Law Enforcement Cooperation, the Military Planning and Conduct Capability/Civilian Planning and Conduct Capability and the Emergency Response Coordination Centre should have coordinating roles for specific user groups. At an aggregated level the Agency and the European Defence Agency should respectively represent the civilian and military user communities and may monitor operational use, demand, conformance to requirements and evolving needs and requirements.

Cooperation, the Military Planning and Conduct Capability/Civilian Planning and Conduct Capability and the Emergency Response Coordination Centre should have coordinating roles for specific user groups. **The European Space Agency should have an observer role, in its capacity as R&D and implementing entity.** At an aggregated level the Agency and the European Defence Agency should respectively represent the civilian and military user communities and may monitor operational use, demand, conformance to requirements and evolving needs and requirements.

Recital (37 bis)

Add new Recital, to define the concept of “strategic autonomy of the Union”, as follows:

The pursuit of strategic autonomy shall be understood as allowing cooperation with non- Member States and international organisations, such as foreseen under the Common Foreign and Security Policy, inter alia, the Berlin Plus agreement, and shall take into account the overlaps between the industrial bases for defence, security and space in Europe. Identification and harmonization of

Strategic autonomy of the EU must be understood as taking into account collaboration with international organisations, such as ESA. This would ensure the establishment of appropriate relations between EU and ESA, as required under Art. 189 TFEU.

critical technologies for strategic autonomy shall draw on the existing work of the European Space Agency, the European Defence Agency, and the Commission and based on processes established by the European Space Agency.

Recital (48)

Copernicus should build on and ensure continuity with the activities and achievements under Regulation (EU) No 377/2014 of the European Parliament and of the Council¹⁷ establishing the Union Earth observation and monitoring programme (Copernicus) as well as Regulation (EU) No 911/2010 of the European Parliament and of the Council on the European Earth monitoring programme (GMES) and its initial operations¹⁸ 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 level¹⁹. To the

The Copernicus Programme is based on a partnership between the Union, the European Space Agency and the Member States. Hence, it should build on existing European and national capacities and should complement them by new assets developed in common. In order to implement this approach, the Commission should endeavour to maintain a dialogue with the European Space Agency and Member States owning relevant space and in situ assets. Copernicus should build on and ensure continuity with the activities and achievements under Regulation (EU) No 377/2014 of the European Parliament and of the Council¹⁷ establishing the Union Earth observation and monitoring programme (Copernicus) as well as Regulation (EU) No 911/2010 of the European Parliament and of the

This reference acknowledges on-going feasibility studies, funded by the European Space Agency, and future development of the first unit of each satellite type, to be funded by ESA.

greatest extent possible, it should make use of capacities for space-borne observations of the Member States, the European Space Agency, EUMETSAT²⁰, as well as other entities, including commercial initiatives in Europe, thereby also contributing to the development of a viable commercial space sector in Europe. Where feasible and appropriate, it should also make use of the available in situ and ancillary data provided mainly by the Member States in accordance with Directive 2007/2/EC²¹. 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.

Council on the European Earth monitoring programme (GMES) and its initial operations¹⁸ 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 level¹⁹. To the greatest extent possible, it should make use of capacities for space-borne observations of the Member States, the European Space Agency, EUMETSAT²⁰, as well as other entities, including commercial initiatives in Europe, thereby also contributing to the development of a viable commercial space sector in Europe. Where feasible and appropriate, it should also make use of the available in situ and ancillary data provided mainly by the Member States in accordance with Directive 2007/2/EC²¹. 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.

Recital (52)

With regard to data acquisition, the activities under Copernicus should aim at completing and maintaining the existing space infrastructure, preparing the long-term replacement of the satellites at the end of their lifetime, as well as initiating new missions addressing new observation systems to support meeting the challenge of global climate change (e.g. anthropogenic CO₂ and other greenhouse gas emissions monitoring). Activities under Copernicus should expand their global monitoring coverage over the polar regions and support environmental compliance assurance, statutory environmental monitoring and reporting and innovative environmental applications (e.g. for crops monitoring, water management and enhanced fire monitoring). In doing so, Copernicus should leverage and take maximum advantage of the investments made under the previous funding period (2014-2020), while exploring new operational and business models to further complement the Copernicus capacities. Copernicus should also build on successful partnerships with Member States to further develop its security dimension under appropriate governance mechanisms, in order to respond to evolving user needs in the security domain.

With regard to data acquisition, the activities under Copernicus should aim at completing and maintaining the existing space **and ground segment** infrastructure, preparing the long-term replacement of the satellites at the end of their lifetime, as well as initiating new missions, **whose feasibility is currently being studied by the European Space Agency**, addressing new observation systems to support meeting the challenge of global climate change (e.g. anthropogenic CO₂ and other greenhouse gas emissions monitoring). Activities under Copernicus should expand their global monitoring coverage over the polar regions and support environmental compliance assurance, statutory environmental monitoring and reporting and innovative environmental applications (e.g. for crops monitoring, water management and enhanced fire monitoring). In doing so, Copernicus should leverage and take maximum advantage of the investments made under the previous funding period (2014-2020) **and investment made by the European Space Agency**, while exploring new operational and business models to further complement the Copernicus capacities. Copernicus should also build on successful partnerships with Member States to further develop its security dimension under

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appropriate governance mechanisms, in order to respond to evolving user needs in the security domain.

*Recital 64
(also Articles 53 and 56)*

The delivery of SST services should be based on a cooperation between the Union and the Member States and on the use of existing as well as future national expertise and assets, including those developed through the European Space Agency or by the Union. It should be possible to provide financial support for the development of new SST sensors. Recognising the sensitive nature of the SST, the control over national sensors and their operations, maintenance and renewal and the processing of data leading to the provision of SST services should remain with the participating Member States.

The delivery of SST services should be based on a cooperation between the Union and the Member States and on the use of existing as well as future national **and ESA** expertise and assets, including those developed through the European Space Agency or by the Union. It should be possible to provide financial support for the development of new SST sensors. Recognising the sensitive nature of the SST, the control over national **and ESA** sensors and their operations, maintenance and renewal and the processing of data leading to the provision of SST services should remain with the **respective ESA and/or EU** participating ~~Member~~ States.

Excludes important contributions from international sensors (laser/optical networks, multi-national radar systems). Processing SST data at national level prevents efficient data-sharing between sensors and value-added products. Fusing data at observation level becomes impossible via a European approach, and contrary to the stated goals, pushes countries towards bilateral agreements.

Recital (70)

.... A space weather function 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 delivery of user-driven space weather services, and improving Member States capabilities to produce space weather service. The Commission should prioritise the sectors to which the operational space weather services are to be provided taking into account the user needs, risks and technological readiness. In the long term, the needs of other sectors may be addressed. The delivery of services at Union level according to the users' needs will require targeted, coordinated and continued research and development activities to support space weather services evolution. The delivery of the space weather services should build on the existing national and Union capabilities and enable a broad participation of Member States and involvement of the private sector.

.... A space weather function should therefore be established as part **of** the Programme with an aim of assessing the space weather risks and corresponding user needs, raising the awareness of space weather risks, ensuring the delivery of user-driven space weather services, and improving Member States capabilities to produce space weather services. The Commission should prioritise the sectors to which the operational space weather services are to be provided taking into account the user needs, risks and technological readiness. In the long term, the needs of other sectors may be addressed. The delivery of services at Union level according to the users' needs will require, targeted, coordinated and continued research and development activities to support space weather services evolution. The delivery of the operational space weather services should be based on ESA's Space Weather System utilising the existing national, **ESA** and Union capabilities and assets and collaboration with international partners and enable a broad participation of Member States and involvement of the private sector.

ESA SSA Programme and the developments within the Programme should be recognised.

EU has very limited SWE capabilities and majority of existing national capabilities are already part of the ESA SSA SWE network.

Recital (80)

(80) At implementation level the tasks and responsibilities should be distributed amongst specialised entities, such as the European Defence Agency, the EEAS, the European Space Agency, the Agency, and other Union agencies in such a manner to ensure that they align with their principal role, especially for user related aspects.

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The amendment proposed aims at reflecting ESA's role at implementation level. Currently, it is not reflected in any articles and should also be added in Article 31.2(d).

Recital (82)

(82) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers regarding operational requirements for services provided under GOVSATCOM should be conferred on the Commission. It will give the possibility to the Commission to define technical specifications for use-cases related to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

(82) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers regarding ~~operational~~ **high-level** requirements for services provided under GOVSATCOM should be conferred on the Commission. It will give the possibility to the Commission to define ~~technical~~ **high-level** specifications for use-cases related to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

Technical requirements and specifications should be entrusted to ESA in line with its expertise and resources.

Recital (86), first and second sentence

(86) Infrastructure dedicated to the Programme may require additional research and innovation, which may be supported under Horizon Europe, aiming for coherence with activities in this domain by the European Space Agency. Synergies with Horizon Europe should ensure that research and innovation needs of the space sector are identified and established as part of the strategic research and innovation planning process.

(86) Infrastructure dedicated to the Programme may require additional research and innovation, which may be supported under Horizon Europe, ~~aiming—~~for **ensuring** coherence **and complementarity** with activities in this domain by the European Space Agency. Synergies with Horizon Europe **and with the research and development programmes of the European Space Agency** should ensure that research and innovation needs of the space sector are identified and established as part of the strategic research and innovation planning process.

The proposed changes aim to ensure complementarity with ESA's research and development programmes, and to avoid duplication of tasks, in application of the ESA-EU partnership agreement.

Recitals (28) and (87)

(28) The mission of the European Union Agency for the Space Programme ("the Agency"), which replaces and succeeds the European GNSS Agency established by Regulation (EU) No 912/2010, is to contribute to the Programme, particularly as regards security.

(87) Regulation (EU) No 912/2010 established a Union agency, called the European GNSS

“European Space Agency” is a worldwide recognised brand also legally protected as the name of an international organisation legally equivalent to that of

Agency, to manage certain aspects of the Galileo and EGNOS satellite navigation programmes. The present Regulation provides in particular that the European GNSS Agency will be entrusted with new tasks, not only in respect of Galileo and EGNOS but also for other components of the Programme, especially security accreditation. The name, tasks and organisational aspects of the European GNSS Agency must therefore be adapted accordingly.

a State. It is also filed and protected as an EU trademark in all classes of products and services related to space activities.

In order to avoid confusion, the name of the EU Agency should be better distinguished from ESA as to reflect their specific mandates.

Article 2(22)

(22) ‘sensitive non-classified information’ means non-classified information that the Commission must protect because of legal obligations laid down in the Treaties or in acts adopted in implementation thereof, and/or because of its sensitivity;

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The proposed definition is circular and too vague. It creates uncertainty about which information to protect and introduces additional layers of administration and cost in projects. To remove

references to this concept from the entire text of the Proposal.

Article 2(2)

‘space weather events’ means naturally occurring variations in the space environment between the Sun and the Earth, including solar flares, solar energetic particles, solar wind, and coronal mass ejections that can lead to solar storms (geomagnetic storms, solar radiation storms and ionospheric disturbances) potentially impacting Earth;

space weather events’ means naturally occurring variations in the space environment between the Sun and the Earth, including solar flares, solar energetic particles, solar wind, and coronal mass ejections that can lead to solar storms (geomagnetic storms, solar radiation storms and ionospheric disturbances) potentially impacting Earth **or space-based infrastructures;**

Definition limited to impacts on Earth. Not physically correct and not in line with the European COST action definition that ESA uses.

Article 3(d)

a space surveillance and tracking system aiming to improve, operate and provide data, information and services related to the surveillance and tracking of active and inactive spacecraft, discarded launchers stages, debris and debris fragments that orbit around the Earth and complemented by observational parameters related to space weather events and the risk of near earth objects ('NEOs') approaching earth monitoring ('SST');

a space surveillance and tracking system aiming to improve, operate and provide data, information and services related to the surveillance and tracking of active and inactive spacecraft, discarded launchers stages, debris and debris fragments that orbit around the Earth and complemented by observational parameters related to space weather events and the risk of near earth objects ('NEOs') approaching **E**earth **monitoring** ('SSTA');

Article 3(d) SWE and NEO defined as complementary to SST component. Potentially inconsistent with 4.2(c).

Article 4.1(c)

(c) enhance the security of the Union and its Member States, its freedom of actions and its strategic autonomy, in particular in terms of technologies and evidence-based decision-making.

N/A

Please refer to the proposed Recital 37 bis, where the concept of strategic autonomy is clarified.

Article 4.2 (c)

for Space Situational Awareness ('SSA'): to enhance SST capabilities to monitor, track and identify space objects, to monitor space weather and to map and network Member States NEO capacities;

For Space Situational Awareness ('SSA'): to enhance SST capabilities to monitor, track and identify space objects, to monitor space weather **and provide operational space weather services**, and to **produce an updated mapping** and network Member States NEO capacities;

List of NEO assets already available within ESA's SSA programme.

Article 5

The Programme shall support:

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

The Programme shall support:

- (a) provision of launching services for the needs of the Programme, **including, when required, the necessary adaptations to the launch system**;
- (b) **harmonisation of requirements concerning the protection of ground infrastructures located on the territory of Member States and used to provide access to space for the Programme.** ~~development activities linked to autonomous, reliable and cost-~~

1) Activities referred to in para b) are not linked to the needs of the Programme and thus this needs to be clarified in order to preserve the rights of EU Member States at national level, in

~~efficient access to space;
(e) where this is required for the needs of the Programme, the necessary adaptations to the space ground infrastructure.~~

ESA and EUMETSAT.

2) Protection of launch ground infrastructure to be introduced to ensure the security dimension of the autonomous access to space;

3) Notion of “space infrastructures” is a too broad term and should be related to ground infrastructure for launcher production and operations.

Article 7.2

The Programme's components, with the exception of the SST, shall also be open to any third country or international organisation, in accordance with the conditions laid down in a specific agreement covering the participation of the third country or of the international organisation to any Union programme, provided that the agreement:

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Excludes ESA from EU SST programme. Conditions for access to SST to be defined in the Regulation.

(a) ensures a fair balance as regards the contributions and benefits of the third country or international organisation participating in the Union programmes;

(b) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];

(c) does not confer to the third country or international organisation a decisional power on the programme;

(d) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

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(c) does not confer to the third country or international organisation a decisional power on the programme;

(d) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

Participation in SST shall be open to any third party or international organisation in accordance with the following conditions [...].

Article 9.1 and 9.2

1. The Union shall be the owner of all tangible and intangible assets created or developed under the Programme's components. To that aim, the Commission shall take the necessary steps to ensure that relevant contracts, agreements and other arrangements relating to those activities which may result in the creation or development

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Article 9.1: Under the original drafting the EU could finance e.g. ground infrastructure, and hence become the owner of the

of such assets contain provisions ensuring such an ownership regime regarding those assets.

2. Paragraph 1 shall not apply to the tangible and intangible assets created or developed under the Programme's components, where the activities which may result in the creation or development of such assets:

- (a) are carried out pursuant to grants or prizes fully financed by the Union;
- (b) are not fully financed by the Union, or
- (c) relate to the development, manufacture or use of PRS receivers incorporating EUCI, or components of such receivers.

of such assets contain provisions ensuring such an ownership regime regarding those assets. **The Union shall fully finance all costs resulting from the ownership of these assets, including the costs of the maintenance thereof.**

2. Paragraph 1 shall not apply to the tangible and intangible assets created or developed under the Programme's components, where the activities which may result in the creation or development of such assets:

- (a) are carried out pursuant to grants or prizes fully financed by the Union;
- (b) are not fully financed by the Union,
- (c) relate to developments of launch systems required as a result of a launch service for a space mission under the EU Programme;** or
- (ed)** relate to the development, manufacture or use of PRS receivers incorporating EUCI, or components of such receivers.

resulting assets, but fail to plan covering the corresponding maintenance costs and leave the latter to be paid by another entity. The proposed amendment aims at ensuring that the EU covers the maintenance costs of the assets it has financed and does not transfer the burden to e.g. ESA.

Article 9.2 new (c):
When development activities are conducted by industry under a launch service contract, the resulting assets (including IPRs) should remain with industry. This is *inter alia* to avoid multiple ownership

over the components of one single launch system.

Article 11.1

The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR [16] billion in current prices.

The indicative distribution of the amount referred to in the first subparagraph shall be as follows:

- (a) for Galileo and EGNOS: EUR [9,7] billion;
- (b) for Copernicus: EUR [5,8] billion;
- (c) for SSA/GOVSATCOM: EUR [0,5] billion

The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR [~~16~~ **19.5**] billion in current prices.

The indicative distribution of the amount referred to in the first subparagraph shall be as follows:

- (c) for Galileo and EGNOS: EUR [9,7] billion;
- (d) for Copernicus: EUR [~~5,8~~ **7,8**] billion;
- (e) for ~~SSA~~/GOVSATCOM: EUR [~~0,5~~ **1,5**] billion;
- (f) **for SSA: EUR [0,5] billion.**

For point (b) the 5,8 billion are not in line with estimates of the Copernicus Long Term Scenario for implementing all the priorities set by the Commission. According to ESA estimation, additional EUR 2 billion would be necessary.

As for (c), the 0,5 billion are not in line with the GOVSATCOM Impact Assessment and an additional EUR 1 billion would be necessary to ensure a minimum

and adequate level of services and innovation in ground and space segment development.

Article 23.2(a)

The partnerships in which the Union participate shall:

(a) be established in cases where they will achieve the objectives of the Union space programme more effectively than the Union alone;

The partnerships in which the Union participate shall:

(a) be established in cases where they will achieve the objectives of the Union Space programme more effectively than the Union alone, **notably amongst others, with the European Space Agency.**

In order to reflect the complementarity of ESA's programmes with the EU space programme, without which the EU alone would not be able to achieve the objectives of its space programme, a partnership agreement should be entered into.

Article 24(1)

1. In addition to the provisions of [Article 165] of the Financial Regulation, the Commission and the Agency may carry out joint procurement procedures with the European Space Agency or other international organisations involved in implementing the components of the Programme.

1. In addition to the provisions of [Article 165] of the Financial Regulation, the Commission and the Agency may carry out joint procurements ~~procedures~~ **in agreement** with the European Space Agency or other international organisations involved in implementing the components of the Programme.

Joint procurement should be a tool available for use by ESA and the EU. It being understood that such procurement can only be made if agreed by both interested parties

It is not an obligation to be imposed on ESA.

Article 24.2

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

2. The procurement rules applicable in ~~[Article 165] of the Financial Regulation shall apply by analogy provided that in any case the procedural provisions applicable to the Institutions are applied.~~ **shall be agreed by the parties.**

The use of the procedural rules applicable to ESA is allowed under the conditions agreed in the FFPA.

Article 27(b)

Principles of governance

(b) strong control of the Programme, including strict adherence to cost and schedule by all the entities, within their respective fields of competence in accordance with this Regulation;

(b) strong control of the Programme, including **utmost strict adherence to cost, schedule, and technical performance, while minimising residual risks**, by all the entities, within their respective field of competence-responsibility, in accordance with this Regulation;

An appropriate trade-off between costs, schedule, performance, and risk should be pursued, and not only on cost and schedule.

Article 29.2

The Commission shall manage the component of the Programme where such management is not entrusted to another entity.

The Commission shall manage the component of the Programme where ~~such management is not entrusted~~ **it will achieve the objectives of the component of the Programme more effectively than by entrusting such management** to another entity.

This amendments is suggested to refer to Article 23.2(a) on Partnerships.

Article 29.4

When necessary for the smooth functioning of the Programme and the smooth provision of the services provided by the Programme's

When necessary for the smooth functioning of the Programme and the smooth provision of the

In application of the principle of strict division of tasks

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

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

and responsibilities of the entities involved, as set out in paragraph 3.

Article 29.6

Where appropriate, it shall ensure the coordination with activities carried out in the space sector at Union, national and international level. It shall encourage cooperation between the Member States and promote convergence of their technological capacities and developments in the space domain.

Where appropriate, it shall ensure the coordination **of the Programme** with activities carried out in the space sector at ~~Union~~ national and international level, **in particular those carried out by the European Space Agency**. It shall encourage cooperation between the Member States and promote convergence of their technological capacities and developments in the space domain.

The responsibility of coordination should not apply to activities carried out outside the Programme e.g. within ESA.

Article 30.2(a)

(a) managing the exploitation of EGNOS and Galileo, as referred to in Article 43;

a) managing the **operations and service provision** ~~exploitation~~ of EGNOS and Galileo, ~~as referred to in Article 43;~~

This is in application of the principle of strict division of responsibilities among the entities involved enshrined in Art. 27(a).

Article 30.2(b)

(b) overarching coordination of user-related aspects of GOVSATCOM in close collaboration with relevant Union agencies and EEAS for crisis management missions and operations;

(b) overarching coordination of user-related aspects of GOVSATCOM in close collaboration with **the European Space Agency**, relevant Union agencies and EEAS for crisis management missions and operations;

Coordination and specification of the user requirements shall be done in collaboration with ESA, as entity in charge of their implementation.

Article 30.2(c)

c) implementing activities relating to the development of downstream applications and services based on the components of the Programme.

c) implementing activities relating to the development of downstream applications and services ~~based on the components of the Programme~~ **for Galileo and EGNOS.**

The Agency should focus and deliver on its main tasks. Other entities, such as the Copernicus Entrusted Entities, or private operators, are best

placed to develop downstream applications for other components under the Commission's political guidance.

Article 31 paragraph 0

The European Space Agency is the preferred institutional partner of the EU for implementing the Programme, with which appropriate relations should be established, as required under Article 189.3 TFEU. Based on high-level programmatic and missions requirements defined by the Commission for any EU space system, ESA assumes an end-to-end implementation role with responsibility for defining the technical and functional requirements, and deploying and accepting such space system. The end-to-end implementation role of ESA includes coordination of interfaces, security, procurement and industrial team management, necessary to support that the space system meets the high-level programmatic and mission requirements.

In any space programme, the public takes on development and other risks which the private sector cannot accept, or only accept with high risk margin. ESA's responsibility stemming from its end to end implementation role extends to the management of the operational risks under its exclusive and direct authority and the agreed technical and functional requirements for

Article 31(1)

Role of the European Space Agency

1. The European Space Agency may be entrusted with the following tasks:

- (a) as regards Copernicus: development, design and construction of the Copernicus space infrastructure, including the operations of that infrastructure;
- (b) as regards Galileo and EGNOS: systems evolution, development of the ground segment and the design and development of

1. The European Space Agency ~~may~~ **shall** be entrusted with the following tasks:

- (a) as regards Copernicus: **coordination of the space segment and the overall end-to-end implementation and delivery of the Copernicus space component and its** development, design and construction of the Copernicus space infrastructure, including the operations of that infrastructure **and access to third party data from Member States' and commercial missions;**
- (b) as regards Galileo and

The role of ESA should be secured in the EU Space Programme and not left open as suggested by the use of “may be entrusted” and should thus read “shall be entrusted”.

This is a more complete list of tasks successfully entrusted to ESA today for which continuity is required. The modal verb *shall* is currently in use in the Copernicus regulation 377/2014.

satellites;

EGNOS: **end-to-end** systems implementation and delivery, i.e. design, development, procurement, deployment of ~~the ground segment and the design and development of satellites~~ **testing and validation of all systems, facilities, tools and their evolutions, including ground segment, satellites, and generic user segment;**

This is a more complete list of tasks successfully entrusted to ESA today for which continuity is required.

(c) **as regards SSA: definition of the overall system architecture, development of SSA elements, and long-term evolution of the SSA system;**

(d) **as regards GOVSATCOM: coordination and development of the overall system design, end-to-end implementation and evolution of the ground and space segment infrastructure;**

This is in line with Recital 80 and includes tasks of design, end-to-end implementation of ground and space segment infrastructure successfully performed by ESA today for the ESA Govsatcom Precursor Programme in coordination with

(c) as regards all the components of the Programme with research and development activities in its fields of expertise.

(e) **as regards research and development activities including for R&D financed by Horizon Europe: definition and management of all R&D activities for all the components of the Programme as provided in Article 3 and Article 5 for the activities of the Programme and in support to Article 6;**

(f) **as regards access to space: ESA is entrusted by its Member States with the development of the European Space Transportation infrastructure and the public role in its exploitation. Regarding the activities of the Programme on launch service procurement for missions therein, ESA shall support the Commission as per Article 5 a) and c);**

(g) **as regards security, the European Space Agency shall be entrusted with the security implementation of the systems for which it will be responsible in**

accordance with Article 34(2), including where relevant, for the preparation of the corresponding accreditation dossiers to be presented to the SAA (Security Accreditation Authority) as per Article 36.

To that effect, and in order to achieve the highest possible levels of efficiency, the European Space Agency shall have the largest possible autonomy, accompanied by the appropriate accountability, for carrying out its tasks in accordance with the budget allocations and high-level requirements, including the maximum residual risk levels and the delivery time schedule provided by, and agreed with, the Commission.

Where appropriate, the Agency and the European Space Agency shall setup the necessary arrangements to coordinate their respective tasks, such arrangements shall not take the form of contracts.

The contractual relation imposed previously by the EC on ESA-GSA working arrangement is not an appropriate instrument of governance as it does not reflect the reality of the division of tasks.

Article 31.2

2. The Commission shall conclude with the Agency and the European Space Agency a financial framework partnership agreement as

2. On the basis of the partnership referred to in Article 23, the Commission shall conclude with the Agency and the European Space Agency

All tasks to ESA shall be “delegated” from the EC to ESA.

provided for in [Article 130] of the Financial Regulation. That financial framework partnership agreement shall:

- clearly define the responsibilities and obligations of the European Space Agency with regard to the Programme;

- require that the European Space Agency complies with the security rules of the Union programme, in particular with regard to the processing of classified information;

a financial framework partnership agreement as provided for in [Article 130] of the Financial Regulation. ~~That~~ **Those** financial framework partnership agreements shall:

- **based on the principles set out in Article 27, in particular point (a),** clearly define the responsibilities and obligations of the **European Union, the Agency, and the** European Space Agency with regard to the Programme;
- **recognise and respect the specific character of the relation between the Union and the European Space Agency as established in the provisions of the Framework Agreement between the European Union and the European Space Agency of 29 April 2004 notably for what concerns Article 1.2 first paragraph, Article 5, Article 10 and Article 11;**
- ~~require that the European Space Agency complies with the security rules of the Union programme, in particular with regard to the processing of classified information;~~ **call for the application of the existing security agreements**

As per the current agreements, the role and responsibilities of all entities involved (EU, the Agency and ESA) should be clearly defined.

ESA, EU and GSA have already entered into security agreements and thus the latter should apply.

- stipulate the conditions of the management of funds entrusted to the European Space Agency, particularly with regard to public procurement, management procedures, the expected results measured by performance indicators, applicable measures in the event of deficient or fraudulent implementation of the contracts in terms of costs, schedule and results, as well as the communication strategy and the rules regarding ownership of all tangible and intangible assets; these conditions shall be in conformity with Titles III and V of this regulation and the Financial Regulation;
 - require the participation of the Commission and, when relevant, the Agency in the
- entered into between the Union, its Institutions and Agencies with the European Space Agency, in particular with regard to the processing of classified information;**
- stipulate the conditions of the management of funds entrusted to the European Space Agency, **relying, as provided for in [Article 126] of the Financial Regulation, to the maximum extent compatible with this Regulation and the Financial Regulation, on the previous assessments made under the “Copernicus Agreement” of 28 October 2014 between the European Union and the European Space Agency, for what concerns:**
 - i. the European Space Agency’s systems and procedures and the expected results measured by performance indicators where appropriate, applicable measures in the event of deficient or fraudulent implementation of the contracts in terms of costs, schedule and results, as well**

Tender Evaluation Board meetings of the European Space Agency with regard to the Programme;

- establish the monitoring and control measures, which shall include, in particular, a cost forecast system, the systematic provision of information to the Commission or, where appropriate, to the Agency, on costs and schedule, and in the event of a discrepancy between the planned budgets, performance and schedule, corrective action ensuring performance of the tasks assigned within the limits of the allocated budgets and penalties against the European Space Agency where this discrepancy is directly attributable to it;

as the communication strategy and the rules regarding ownership of all tangible and intangible assets; these conditions shall be in conformity with Titles III and V of this Regulation and the Financial Regulation;

- ii. **the establishment of the monitoring and control measures, which shall include, in particular, a cost forecast system, the systematic provision of information to the Commission on costs and schedule, and in the event of a discrepancy between the planned budgets, performance and schedule, corrective action ensuring performance of the tasks assigned within the limits of the allocated budgets and penalties against the European Space Agency where this discrepancy is directly attributable to it;**

In space programmes, schedule or budget discrepancies occur in case of unpredictable events (e.g. a failed launch) which must be accepted. A penalty scheme is inappropriate.

- ~~require the participation of the Commission and, when relevant, the~~

- establish the principles for the remuneration of the European Space Agency, which shall be proportionate to the difficulty of the tasks to be carried out, in line with market prices and the fees of the other entities involved, including the Union, and may, where appropriate, be based on performance indicators; those fees shall not cover general overheads which are not associated with the activities entrusted to the European Space Agency by the Union.

Agency in the Tender Evaluation Board meetings of the European Space Agency with regard to the Programme; **A Procurement Board as that established under the Copernicus agreement of 2014 shall be established with regards to the Programme, chaired by a Commission Authorising officer, with the participation of ESA and, when applicable, the Agency. The tasks entrusted to ESA shall be implemented by ESA following its own procurement rules and procedures. ESA is entrusted as contracting authority and awards contacts on its own name, with exception of launch services. The rules and procedures of the Procurement Board shall be defined in the financial framework partnership agreement as provided by paragraph 2 above.**

- establish the principles for the remuneration of the European Space Agency, which shall be proportionate to the difficulty of the tasks to be carried out, ~~in line with market prices and the fees of the other entities involved, including the Union,~~ and may,

The technical and programme management skills of ESA bring a unique value to the EU Space programme. The cost model of ESA - and other public entities such as EUMETSAT - is determined by its Member States and it is hardly comparable with that of private companies. The principle of a retribution through a lump sum was successfully applied in the case of Copernicus.

where appropriate, be based on performance indicators; ~~those fees shall not cover general overheads which are not associated with the activities entrusted to the European Space Agency by the Union.~~

This follows from the flexibility provisions contained in Recital 16.

- **allow ESA to make adjustments within the agreed overall financial envelope consisting of ESA's remuneration and industrial costs in the light of technical uncertainties that characterise the Programme.**

Article 31.3

3. The conclusion of the financial framework partnership agreement referred to in paragraph 2 shall be contingent upon the establishment, within the European Space Agency, of internal structures and of an operational method, in

3. The conclusion of the financial framework partnership agreement referred to in paragraph 2 shall be contingent **upon a positive opinion of the committee referred to in Article 107.1 in application of Article 107(3).**~~the establishment, within the European Space~~

The conclusion of the Financial Framework Partnership Agreement should not be made

particular for decision-making, management methods and liability, which make it possible to ensure maximum protection for the interests of the Union and to comply with its decisions, including for the activities financed by the European Space Agency, which have an impact on the Programme.

~~Agency, of internal structures and of an operational method, in particular for decision-making, management methods and liability, which make it possible to ensure maximum protection for the interests of the Union and to comply with its decisions, including for the activities financed by the European Space Agency, which have an impact on the Programme.~~

conditional to the establishment of the conditions set by the EU under Article 31.3. This paragraph 31.3 must be deleted as it is in direct breach of the Framework Agreement of 2004 and as such cannot be implemented by ESA and aims at:

- introducing legal elements and new principles of governance within ESA that go beyond what is required by the EU to implement its budget pursuant to its Financial Regulation; and,
- giving an unlimited and effective control to the EU on ESA's own activities, leading to a loss of

control of Member States on ESA.

Further the FFPA should be subject to an examination of the Member States in order to ensure that their interests in ESA are protected.

Article 31.4

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

Article 34 (Governance of security)

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

4. Without prejudice to the financial framework partnership agreement referred to in paragraph 4, the Commission or the Agency may ask the European Space Agency to provide technical expertise and the information necessary to perform the tasks which are assigned to them by this Regulation **under conditions to be mutually agreed and provided such request do not bear adverse consequences on the European Space Agency's own activities and existing obligations.**

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

The instrument and conditions (including remuneration) under which ESA will provide the required expertise need to be clearly identified and established.

Any control of technology

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

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

transfers or know-how should be coordinated with export control authorities and aligned with existing legislation in EU and Member States *inter alia* Regulation No 428/2009 for the control of exports, transfer, brokering and transit of dual-use items.

Article 34.1
[...]

To that end, the Commission shall ensure that a risk and threat analysis is performed for each Programme's component. Based on that risk and threat analysis, it shall determine, by means of implementing acts, for each component of the Programme, the general security requirements. In doing so, the Commission shall take account of the impact of those requirements on the smooth functioning of that component, in particular in terms of cost, risk management and schedule, and shall ensure not to reduce the general level of security or undermine the

To that end, the Commission shall ensure, **in consultation with end users in Member States and the relevant entities managing the implementation of a component of the Programme in accordance with Articles 30 and 31**, that a risk and threat analysis is performed for each Programme's **such** component.

Based on that risk and threat analysis, it shall ~~determine~~ **establish**, ~~by means of implementing~~

ESA should be consulted regarding threat and risk analyses related to the entrusted space systems. It is also important that general high-level security requirements are iterated with ESA before being

functioning of the existing equipment based on that component. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

acts **in consultation with end users in Member States and the relevant entities managing the implementation of a component of the Programme**, for each ~~such component of the Programme~~, the ~~general~~ **high-level** security requirements. In doing so, the Commission shall take account of the impact of those requirements on the smooth functioning of that component, in particular in terms of cost, risk management and schedule, and shall ensure not to reduce the general level of security or undermine the functioning of the existing equipment based on that component. Those ~~general~~ **high-level security requirements** shall be adopted **as** implementing acts in accordance with the examination procedure referred to in Article 107(3).

established.

When ESA is managing the implementation of a component of the Programme, it must be responsible for the activities set out in Art. 31.1 of this document, in particular, point (g).

Article 34. 2

2. The entity responsible for the management of a component of the Programme shall be responsible for managing the security of that component and shall, to that end, carry out risk and threat analysis and all the necessary activities to ensure and monitor the security of that component, in particular setting of technical specifications and operational procedures, and

2. The **relevant** entity ~~responsible for the management~~ **managing the implementation** of a component of the Programme **in accordance with Articles 30 and 31** shall be responsible for managing the security of that component, and shall, to that end, carry out risk and threat analysis and all the necessary activities to ensure and monitor the security of that

To ensure consistency with the modifications in paragraph 1 and to clarify the tasks and responsibilities related to accreditation.

monitor their compliance with the general security requirements referred to in paragraph 1.

component, in particular setting of technical specifications, ~~and operational procedures, and~~ **the preparation of accreditation dossiers,** and monitor their compliance with the general **high-level** security requirements referred to in paragraph 1 **and with the accreditation criteria established.**

Article 34.3

3. The Agency shall:

- (a) ensure the security accreditation of all the components of the Programme in accordance with Chapter II of this Title and the competences of the Member States;
- (b) ensure the operation of the Galileo Security Monitoring Centre in accordance with the requirements referred to in paragraph 2 and the instructions developed under the scope of Decision 2014/496/CFSP;
- (c) perform the tasks assigned to it under Decision No 1104/2011/EU;
- (d) provide the Commission with its technical expertise and supply any information necessary for the performance of its tasks under this Regulation.

3. Concerning its independent role in security accreditation, tThe Agency shall:

- (a) ensure the security accreditation of all the components of the Programme in accordance with Chapter II of this Title and the competences of the Member States;
- (b) ensure the operation of the Galileo Security Monitoring Centre in accordance with the requirements referred to in paragraph 2 and the instructions developed under the scope of Decision 2014/496/CFSP;
- (c) perform the tasks assigned to it under Decision No 1104/2011/EU;
- ~~(d) provide the Commission with its technical expertise and supply any information necessary for the performance of its tasks under this Regulation.~~

With these modifications, this Article clarifies the role of the Agency as concerns security accreditation only. Thus, point (d) is not relevant for this Article.

Article 37.2(ii)

It is necessary that

ii) a security accreditation process for the components of the Programme or parts of these components, with a degree of detail commensurate with the required level of assurance and clearly stating the accreditation conditions;

ii) a security accreditation process for the components of the Programme or parts of these components, with a degree of detail commensurate with the required level of assurance and clearly stating the accreditation conditions **at the beginning of the accreditation process**;

accreditation criteria are known at the beginning of the implementation of the Programme, since they drive the system design, development, and testing.

Article 46

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

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

Those implementing measures shall be adopted in accordance with the examination procedure

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

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

Those implementing measures shall be adopted in accordance with the examination procedure

If these measures are likely to have an impact on ESA's activities and associated commitments, their consequences should be agreed with ESA.

referred
to in Article 107(3).

referred to in Article 107(3) **and, where applicable, their consequences on the tasks entrusted shall be mutually agreed with the entities concerned.**

Article 48.1

Copernicus shall be implemented building on prior Union investments and, where appropriate, drawing on the national or regional capacities of Member States and taking into account the capacities of commercial suppliers of comparable data and information and the need to foster competition and market development.

Copernicus shall be implemented building on prior ~~Union~~ investments **of the Union and of ESA** and, where appropriate, drawing on the national or regional capacities of Member States and taking into account the capacities of commercial suppliers of comparable data and information and the need to foster competition and market development

ESA has contributed to 30% of the programme so far and they are expected to continue, especially for new Sentinel satellites.

Article 54.1(d)

(d) the prevention of the proliferation of space debris.

~~the prevention of the proliferation of space debris.~~

Redundant. SST “prevents proliferation of space debris” only by helping to avoid collisions with operated satellites (as mentioned in 1a).

Article 55.2

Prevents use of data

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

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

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

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

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

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

for commercial services, while in the past years significant downstream business based on SST data has developed, first in the US and now also in Europe.

The new US policy reflects the increasing commercialisation of SSA/SST. A number of commercial tools and service rely on a liberal data policy for at least a (unclassified) subset of the data. This limitation is also in conflict with the EU objective to create new jobs and new markets for European industry.

Article 56

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

Article 60.1

The NEO function may support the following activities:

(a) the mapping of Member States' capacities for detecting and monitoring NEOs;

Article 60.2

The Commission may coordinate the actions of the Union and national public authorities concerned with civil protection in the event a NEO is found to be approaching Earth.

Member States **or international organisations** wishing to participate in the delivery of SST services referred to in Article 54 shall submit **respectively** a joint proposal **or a proposal**, to the Commission demonstrating compliance with the following criteria:

The NEO function may support the following activities:

(a) **update** the **existing** mapping of Member States' capacities for detecting and monitoring NEOs;

The Commission may coordinate the actions of the Union and national public authorities concerned with civil protection in the event a NEO is found to be approaching Earth, **with the involvement of the appropriate United Nations' bodies**.

This is to allow ESA to provide SST services.

(a) is already available within ESA.

Added value of EU involvement in existing, internationally-established system to be specified.

Should recognise the system already in place, e.g. involving UN-endorsed groups, national civil protection authorities.

Article 61

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

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

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

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

This change is suggested for completeness purposes.

Article 62.2

2. The Commission shall adopt, by means of implementing acts, the operational requirements for services provided under GOVSATCOM, in the form of technical specifications for use-cases related to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those operational requirements shall be based on the

2. The Commission shall adopt, by means of implementing acts, the operational requirements for services provided under GOVSATCOM, in the form of technical specifications **defined by the entity entrusted with their system implementation** for use-cases related to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those operational requirements shall be based on the detailed

This change is suggested for consistency purposes (cf. Recitals 80 and 82)

detailed analysis of the requirements of users, and taking into account requirements stemming from existing user equipment and networks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

analysis of the requirements of users, and taking into account requirements stemming from existing user equipment and networks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

Article 65.2

2. The Commission shall adopt, by means of implementing acts, the detailed rules on the sharing and prioritisation of capacities, services, and user equipment, taking into account expected demand for the different use-cases and the analysis of security risks for those use-cases. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

2. The Commission shall adopt, by means of implementing acts, the detailed rules on the sharing and prioritisation of capacities, services, and user equipment, taking into account expected demand for the different use-cases, **the technical analysis by the entity entrusted with the implementation of system solutions for supplying capacities and services**, and the analysis of security risks for those use-cases. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

This change is suggested for consistency purposes (cf. Recitals 80 and 82)

Article 66

1. The ground segment shall include infrastructure necessary to enable the provision of services to users in accordance with Article 65, particularly the GOVSATCOM Hubs which

1. The ground segment shall include infrastructure necessary to enable the provision of services to users in accordance with Article 65, particularly the GOVSATCOM Hubs which shall be procured **by the entity entrusted with the**

Amendment proposed for clarification purposes.

shall be procured under this component to connect GOVSATCOM users with providers of satellite communication capacities and services.

2. The Commission shall determine, by means of implementing acts, the location of the ground segment infrastructure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

Article 68

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

Article 69

implementation of the ground segment under this component to connect GOVSATCOM users with providers of satellite communication capacities and services.

2. The Commission shall determine, by means of implementing acts, the location of the ground segment infrastructure, **with due consideration of existing EU Critical Infrastructure already providing communications services in the security and safety domain.** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

The Commission shall monitor the evolution of supply and demand for GOVSATCOM capacities and services continuously, taking into account new risks and threats, as well as new technology developments **and system solutions as identified by the entity entrusted with the implementation of the system,** in order to optimise the balance between that supply and demand for GOVSATCOM services.

Amendment proposed for clarification purposes

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

Before the end of 2024, the Commission shall evaluate the implementation of the GOVSATCOM component, notably as regards the evolution of the user needs in relation to the satellite communication capacity **and the evolution of technical solutions.** The evaluation shall in particular examine the need for additional space infrastructure. The evaluation shall **take into account the technical analysis of possible space segment solution performed by the entity entrusted with the implementation of the system, and shall** be accompanied, if necessary, by an appropriate proposal for the development of additional space infrastructure under the GOVSATCOM component.

Amendment proposed for clarification purposes.

Articles 62, 65, 66

The Commission shall adopt, by means of “implementing acts”...

The Proposal is incomplete as it defers critical provisions to “implementing acts” to be adopted in accordance with the examination procedure referred to in Article 107(3)

following the EC internal processes outside the influence of other entities.

It is therefore proposed to include the main principles of these implementing acts in the Proposal.

To include ESA as a GOVSATCOM participant.

Article 67.1

1. Member States, the Council, the Commission and the EEAS shall be GOVSATCOM participants insofar as they authorise GOVSATCOM users, or provide satellite communication capacities or ground segment sites or part of the ground segment facilities.

1. Member States, the Council, the Commission ~~and~~ the EEAS, **and the European Space Agency** shall be GOVSATCOM participants insofar as they authorise GOVSATCOM users, or provide satellite communication capacities or ground segment sites or part of the ground segment facilities.