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## **INFORMATION NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Secure Connectivity Programme for the period 2023-2027 - Outcome of the European Parliament's first reading (Strasbourg, 13-16 February 2023)

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## **I. INTRODUCTION**

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure<sup>1</sup>, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

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<sup>1</sup> OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on Industry, Research and Energy (ITRE), Cristian-Silviu BUSOI (EPP, RO), presented a compromise amendment (amendment number 2) to the abovementioned proposal for a Regulation on behalf of ITRE. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

## II. VOTE

When it voted on 14 February 2023, the plenary adopted the compromise amendment (amendment number 2) to the abovementioned proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto<sup>2</sup>.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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<sup>2</sup> The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

## P9\_TA(2023)0033

### Union Secure Connectivity Programme 2023-2027

**European Parliament legislative resolution of 14 February 2023 on the proposal for a regulation of the European Parliament and of the Council establishing the Union Secure Connectivity Programme for the period 2023-2027 (COM(2022)0057 – C9-0045/2022 – 2022/0039(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0057),
  - having regard to Article 294(2) and Article 189(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0045/2022),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the provisional agreement approved by the responsible committee under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 23 November 2022 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the opinion of the Committee on Budgets,
  - having regard to the report of the Committee on Industry, Research and Energy (A9-0249/2022),
1. Adopts its position at first reading hereinafter set out;
  2. Approves the joint statement by Parliament and the Council annexed to this resolution, which will be published in the C series of the *Official Journal of the European Union*;
  3. Approves the joint statement by Parliament, the Council and the Commission annexed to this resolution, which will be published in the C series of the *Official Journal of the European Union*;
  4. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

**P9\_TC1-COD(2022)0039**

**Position of the European Parliament adopted at first reading on 14 February 2023 with a view to the adoption of Regulation (EU) 2023/... of the European Parliament and of the Council establishing the Union Secure Connectivity Programme for the period 2023-2027**

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>,

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<sup>1</sup> Position of the European Parliament of 14 February 2023.

Whereas:

- (1) The conclusions of the European Council of 19-20 December 2013 welcomed the preparations for the next generation of governmental satellite *communications* through close cooperation between the Member States, the Commission and the European Space Agency (ESA). Governmental *satellite communications* *have* also been identified as one of the elements of the Global Strategy for the European Union's Foreign and Security Policy of June 2016. Governmental *satellite communications* *are* to contribute to the EU response to Hybrid Threats and provide support to the EU Maritime Security Strategy and to the *EU* Arctic policy.
- (2) The conclusions of the European Council of 21-22 March 2019 stressed that the Union needs to go further in developing a competitive, secure, inclusive and ethical digital economy with world-class connectivity.
- (3) The Communication of the Commission of 22 February 2021, entitled 'Action Plan on synergies between civil, defence and space industries', states that it aims to 'enable access to high-speed connectivity for everyone in Europe, and provide a resilient connectivity system allowing Europe to remain connected whatever happens'.

- (4) *‘A Strategic Compass for Security and Defence’ adopted by the Council on 21 March 2022 recognises that the space infrastructure of the Union and of its Member States contributes to our resilience and offers key services that substitute or complement ground infrastructures for telecommunications. It therefore calls for the Union to work on the proposal for a Union space-based global secure communication system.*

(5) *One of the components of the Union Space Programme established by Regulation (EU) 2021/696 of the European Parliament and of the Council<sup>1</sup> is GOVSATCOM, which aims to ensure the long-term availability of reliable, secure, **scalable** and cost-effective satellite communications services for GOVSATCOM users. Regulation (EU) 2021/696 envisages that in a first phase ■ of the GOVSATCOM component, until approximately 2025, existing capacity would be **pooled and shared through the GOVSATCOM Hub**. In that context, the Commission is to 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 are to be introduced on the basis of a step-by-step approach, **in light of the scaling up of the GOVSATCOM Hub infrastructure capabilities**. That approach is also based on the premise that if in the course of the first phase a detailed analysis of future supply and demand reveals that it was insufficient to cover the evolving demand, **it** will be necessary to move to a second phase and develop additional bespoke space infrastructure or capacities through cooperation with the private sector, for example with Union satellite operators.*

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<sup>1</sup> *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 (OJ L 170, 12.5.2021, p. 69).*

(6) *On 22 March 2017, the Council's Political and Security Committee endorsed the High Level Civil Military User Needs for Governmental Satellite Communications (GOVSATCOM), which were prepared by the European External Action Service (EEAS) and with which the military user's requirements identified by the European Defence Agency in its Common Staff Target adopted in 2013 and the civilian user needs collected by the Commission have been merged. Subsequent analyses by the Commission showed that the Union's current satellite communication offer, on the basis of capacities from Member States with national systems as well as the private sector, cannot meet certain new needs of the governmental demand which are moving towards higher security solutions, low latency and global coverage. Those needs should be monitored and reassessed regularly.*



- (7) *Recent technical progress has allowed non-geostationary-orbit (NGSO) communications constellations to emerge and gradually offer high-speed and low latency connectivity services. There is therefore a window of opportunity for addressing the evolving needs of government-authorised users by developing and deploying additional infrastructure as filings for the frequencies with the International Telecommunication Union which are necessary to provide the required services are currently available within the Union. If not used, those filings for the frequencies will become obsolete and be attributed to other players. As frequencies and orbital slots are an increasingly scarce resource, the Commission, through an open and transparent process with the Member States, should seize this opportunity to conclude with the Member States providing the filings for the frequencies dedicated licensing agreements for the provision of governmental services based on the governmental infrastructure. The private sector is responsible for obtaining the rights on filings for the frequencies required for the provision of commercial services.*
- (8) There is growing demand by the Union's governmental actors for secure and reliable *spaced-based* satellite communication services, particularly because they are the *most* viable option in the absence of ground-based communication systems or where they are disrupted or unreliable. Affordable and cost-effective access to *satellite* communication is also indispensable in *areas where there is no terrestrial infrastructure, including over oceans*, in airspace, *in remote areas and where terrestrial infrastructure faces serious outage or cannot be trusted in crisis situations. Satellite communication can increase the overall resilience of communication networks, for example offering an alternative in the case of physical attacks or cyberattacks on local terrestrial infrastructure, accidents or natural or man-made disasters.*

(9) The Union should ensure the provision of resilient, global, ***secure, protected, uninterrupted, guaranteed and flexible*** satellite communication solutions for evolving governmental needs ***and requirements***, built on a Union technological and industrial base, in order to increase the resilience of Member States' and Union institutions' operations █ .

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(10) Therefore, it is important to establish a new programme, █ namely the Union Secure Connectivity Programme (the 'Programme'), to provide for ***a*** Union ***satellite-based, multi-orbital*** communication infrastructure ***for governmental use, while integrating and complementing existing and future*** national and European capacities ***in the framework of the GOVSATCOM component, and developing further and gradually integrating*** the European Quantum Communication Infrastructure (EuroQCI) initiative ***into the secure connectivity system***.

- (11) The Programme should *meet the new* governmental *needs for higher security solutions, low latency and global coverage. It should ensure the provision and long-term availability of worldwide uninterrupted access to secure, autonomous, reliable and cost-effective satellite governmental communication services, supporting the resilience and protection of critical infrastructure, situational awareness, external actions, crisis management, as well as applications that are critical* for the *Union's and Member States' economy, security and defence, through a dedicated governmental infrastructure which integrates and complements the capacities of GOVSATCOM. Moreover, the Programme should prioritise the delivery of governmental services and allow for the provision of commercial services by the European private sector, taking into account a market survey including consultation of* government-authorised users, *through a commercial infrastructure.*

**(12) Decision (EU) 2022/2481 of the European Parliament and of the Council<sup>1</sup> sets a series of objectives and targets to promote the development of resilient, secure, performant and sustainable digital infrastructures in the Union, including a digital target for the Commission and Member States to achieve gigabit connectivity for all by 2030. The Programme should enable connectivity across the Union and around the globe, for citizens and business, including, but not limited to, providing access to affordable high-speed broadband that can help remove communication dead zones and increase cohesion across the Union, including its outermost regions, rural, peripheral, remote and isolated areas and islands. The satellite services cannot currently replace the performance of ground-based networks but can bridge the digital divide and even contribute, where applicable, to the general objectives of Directive (EU) 2018/1972 of the European Parliament and of the Council<sup>5</sup>.**

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<sup>1</sup> **Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030 (OJ L 323, 19.12.2022, p.4).**

<sup>5</sup> **Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).**

**(13) *The Programme should therefore consist of the definition, design, development, validation and related deployment activities for the construction of the initial space and ground infrastructure, required for the provision of first governmental services. The Programme should then entail gradual deployment activities aimed at completing both the space and ground infrastructure required for the provision of advanced governmental services, which are currently not available and are beyond the state-of-the-art of existing European satellite communication services. Moreover, the Programme should promote the development of user terminals able to exploit the advanced communication services. The exploitation activities should begin as soon as possible with the provision of the first governmental services aimed by 2024, so that the needs of government-authorised users are met as soon as possible. The Programme should then entail activities aiming to complete both the space and ground infrastructure required for a full operational capability by 2027. The provision of governmental services, the operation, maintenance and continuous improvement of the space and ground infrastructure, once deployed, as well as the development of the future generations of the governmental services, should be part of the exploitation activities.***

(14) In June 2019, Member States signed the **European Quantum Communication Infrastructure (EuroQCI) Declaration** (the ‘Declaration’), agreeing to work together, with the Commission and with the support of ESA, towards the development of a quantum communication infrastructure covering the whole Union. In accordance with the Declaration, EuroQCI aims to deploy a certified secure end-to-end quantum communication infrastructure, enabling information and data to be transmitted and stored **and to be capable of linking critical public communication assets throughout the Union.** *The Programme will contribute to meeting the objectives of the Declaration by developing a EuroQCI space and ground infrastructure integrated into the governmental infrastructure of the Programme, as well as by developing and deploying the EuroQCI terrestrial infrastructure, which will be owned by the Member States.* The EuroQCI space, *ground and terrestrial* infrastructure should be developed within the Programme in two main phases, a preliminary validation phase, *which may involve the development and validation of several different technologies and communication protocols, and a full-deployment phase* including appropriate solutions for inter-satellite connectivity and data relay between satellites, the ground *and the terrestrial* infrastructure **.**

- (15) *One of the main functions of the EuroQCI will be to allow for quantum distribution of cryptographic keys (QKD). To date, QKD technology and products are not sufficiently mature to be used for the protection of EU classified information (EUCI). The main issues concerning QKD security, such as standardisation of QKD protocols, side channel analysis and evaluation methodology, still need to be solved. The Programme should therefore support the EuroQCI and allow for the inclusion of approved cryptographic products in the infrastructure when available.*
- (16) *In order to protect EUCI in a satisfactory secured manner, primary solutions to counter threats posed by quantum computing should be the combination of conventional solutions, post-quantum cryptography and possibly QKD in hybrid approaches. The Programme should therefore use such approaches, for the purpose of ensuring both state-of-the-art cryptography and key distribution.*

- (17) In order to expand Union satellite communication capacities, the Programme infrastructure should ***be based upon***, integrate ***and complement*** the infrastructure developed for the purposes of the of the GOVSATCOM component. In particular, the Programme’s ground infrastructure should ***be based upon*** the GOVSATCOM Hubs, ***as progressively scaled up on the basis of user needs through*** other ground segment assets, ***including those of the Member States willing to contribute additionally, on the basis of operational and security requirements***.
- (18) The ***Programme should improve secure connectivity over geographical areas of strategic interest***, such as ***Africa and the Arctic as well as the Baltic, the Black Sea, Mediterranean regions and the Atlantic***. ***The services provided under the Programme should also*** contribute to geopolitical resilience by offering additional connectivity in line with policy targets in those regions and with the Joint Communication of the Commission and the High Representative of the Union for Foreign Affairs and Security policy of 1 December 2021 entitled ‘The Global Gateway’.



(19) ***Without prejudice to the communication services***, the satellites built for the purposes of the Programme ***could be*** equipped with ***subsystems, including*** payloads, that can allow the increase of the capacity and services of ■ the components of the Union Space Programme, enabling thereby the development of additional ***non-communication services to be decided*** by ***the Programme committee meeting in the relevant configuration, as*** set out in Regulation (EU) 2021/696, ***and implemented under the conditions set out in this Regulation. If the benefit to the components of the Union Space Programme is duly established, taking into account user needs and budgetary constraints, those subsystems could be developed to offer*** alternative positioning, navigation and timing services complementing Galileo, to ensure the broadcast of European Geostationary Navigation Overlay Service (EGNOS) messages with a lower latency, to provide space-based sensors for space surveillance and to support the enhancement of current Copernicus capabilities, in particular for emergency and civil security services. ***Moreover, those subsystems could provide non-communication services to Member States, under the condition that this does not impact the security and budget of the Programme.***

- (20) Considering the importance for the Programme of its ground governmental infrastructure and the impact thereof on its security, the location of such infrastructure should be determined by the Commission, ***in line with the general security requirements and following an open and transparent process, with a view to ensuring a balanced distribution among Member States.*** The deployment of the ground governmental infrastructure of the Programme, ***which also integrates the infrastructure developed under the GOVSATCOM component,*** could involve the ***European Union Agency for the Space Programme (the ‘Agency’) or,*** where appropriate and within its field of competence, ***ESA.***
- (21) It is vital for the security of the Union and its Member States and for ensuring the security and integrity of the governmental services, that ■ the space assets of the Programme are launched from the ***Union’s territory. In exceptional, duly substantiated circumstances, it should be possible for such launches to take place from the territory of a third country. In addition to heavy and medium launchers, small launchers and microlaunchers could*** provide additional flexibility to allow for a rapid deployment of the space assets.

- (22) It is important that the Union owns all tangible and intangible assets related to governmental infrastructure *developed under the Programme, except the EuroQCI terrestrial infrastructure*, while ensuring the compliance with the Charter of Fundamental Rights of the European Union, including Article 17 thereof. Despite the ownership by the Union of those assets, it should be possible for the Union, in accordance with this Regulation and, where it is deemed appropriate on a case-by-case assessment, to make those assets available to third parties or to dispose of them.■
- (23) *Union-wide initiatives, such as the secure connectivity initiative, are shaped by the broad participation of innovative small and medium-sized enterprises (SMEs), start-ups and large enterprises from the upstream and downstream space sector throughout the Union. In recent years, some space actors have challenged the space sector, in particular start-ups and SMEs which developed innovative, market-driven space technologies and applications, sometimes with different business models. In order to ensure the competitiveness of the Union space ecosystem, the Programme should maximise the use of innovative and disruptive technologies, as well as novel business models developed by the European space ecosystem, including New Space, in particular by SMEs, mid-cap companies and start-ups that develop market-driven novel space technologies and applications, while covering the whole space value chain encompassing the upstream and downstream segments.*

(24) *It is essential to encourage private sector investment through appropriate procurement and aggregation of service contracts, thus reducing uncertainty and providing long-term visibility and predictability of public sector services needs.* To ensure the competitiveness of the European space industry in the future, the Programme should *also* contribute to the development of advanced skills in space-related fields and support education and training activities, as well as promoting equal opportunities, gender equality and women's empowerment, in order to realise the full potential of Union citizens in that area.

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(25) *In line with the objectives set out in the Commission Communication of 11 December 2019 entitled ‘The European Green Deal’, the Programme should minimise, to the extent possible, its environmental impact. While the space assets do not themselves emit greenhouse gases while in use, their manufacturing and associated ground facilities do have an environmental impact. Measures should be adopted to mitigate that impact. To that end, the procurement referred to under the Programme should include principles and measures on sustainability, such as provisions to minimise and offset the greenhouse gas emissions generated by the development, production and deployment of the infrastructure, and measures to prevent light pollution, such as the impact on ground-based astronomical observations.*

*(26) Given the growing number of spacecraft and space debris in orbit, the new European constellation should also satisfy space sustainability criteria and be an example of good practices in space traffic management and in space surveillance and tracking (SST), in order to reduce the amount of space debris produced, prevent on-orbit break-ups and on-orbit collision, and provide appropriate end-of-life spacecraft measures. As legitimate concerns on the protection of space environment are being discussed in international fora, such as within the United Nations' Committee on the Peaceful Uses of Outer Space, it is of the utmost importance that the Union shows leadership in space sustainability. The contracts procured under the Programme should ensure that the technology deployed enables the highest possible standards when it comes to sustainability, as well as energy and resource efficiency.*

(27) Operational requirements for the governmental services should be based on the ***assessment of government-authorised users' needs, while also taking into account the capabilities of the current market offer. When assessing those requirements the current market capacities should be used to the largest extent possible.*** From those operational requirements, in combination with the general security requirements and evolving demand of governmental services, the ***service*** portfolio for governmental services should be developed. ***That*** service portfolio should establish the applicable baseline for the governmental services. It should also ***identify the categories of service which complement*** the service portfolio of the GOVSATCOM services established within the framework of Regulation (EU) 2021/696. ***The Commission should ensure the consistency and coherence of operational and security requirements between the GOVSATCOM component and the Programme.*** In order to maintain the best possible match between the demand and supply of services, the service portfolio for governmental services should be ***identified in 2023 and should be able to be*** regularly updated, ***after consulting Member States on the basis of those operational and security requirements.***

(28) Satellite communications is a finite resource limited by the satellite capacity, frequency and geographical coverage. *Hence*, in order to be cost-effective and to capitalise on economies of scale, the Programme should optimise the match between the supply and demand of the governmental services *and avoid overcapacity*. Since the demand and the potential supply both change over time, the Commission should monitor the needs to adjust the portfolio for the governmental services whenever this appears necessary.

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(29) Member States, the Council, the Commission and the *EEAS*, as well as Union agencies and bodies should be able to become Programme participants, insofar as they choose to authorise users of governmental services or provide capacities, sites or facilities. Taking into consideration that it is for the Member States to decide whether to authorise national users of governmental services, Member States should not be obliged to *contribute to the Programme* ■ or to host the Programme infrastructure.

- (30) Each Programme participant should designate a competent secure connectivity authority to monitor whether users, and other national entities that play a role in the Programme, comply with the applicable rules and security procedures, as laid down in the general security requirements. *Programme participants may confer the functions of such an authority to an existing authority.*
- (31) 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>7</sup>, for the European Parliament and the Council during the annual budgetary procedure.

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<sup>7</sup> OJ L 433I, 22.12.2020, p. 28.



(32) The objectives of the Programme are consistent and complementary with those of other Union programmes, particularly Horizon Europe, established by Regulation (EU) 2021/695 of the European Parliament and of the Council<sup>8</sup> **and Council Decision (EU) 2021/764**<sup>9</sup>, the Digital Europe Programme, established by Regulation (EU) 2021/694 of the European Parliament and of the Council<sup>10</sup>, the Neighbourhood, Development and International Cooperation Instrument – Global Europe, established by Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>11</sup>, the Connecting Europe Facility, established by Regulation (EU) 2021/1153 of the European Parliament and of the Council<sup>12</sup> and, in particular, the Union Space Programme.

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<sup>8</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 (OJ L 170, 12.5.2021, p. 1).

<sup>9</sup> **Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167I, 12.5.2021, p. 1).**

<sup>10</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).

<sup>11</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the **Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council** and repealing **Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).**

<sup>12</sup> Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the **Connecting Europe Facility** and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).

(33) ■ Horizon Europe ■ will allocate a dedicated share of its Cluster 'Digital, Industry and Space' components to research and ■ innovation activities related to development and validation of the secure connectivity system, including for the potential technologies that would be developed under *the space ecosystem, including* New Space. ■ The Neighbourhood, Development and International Cooperation Instrument – *Global Europe* (NDICI) will allocate a dedicated share of its Global Europe funds for activities related to the operation of the secure connectivity system and the worldwide provision of services that will make it possible to offer an array of services to international partners. The Union Space Programme will allocate a dedicated share of the GOVSATCOM component for the activities related to the development of the GOVSATCOM Hub which will form part of the ground infrastructure of the secure connectivity system. The funding stemming from these programmes should be implemented in accordance with the rules of these programmes. ■

- (34) Due to its inherent implications on the security of the Union and its Member States, the Programme also shares objectives and principles with the European Defence Fund, established by Regulation (EU) 2021/697 of the European Parliament and of the Council<sup>14</sup>. Therefore, part of the funding from the European Defence Fund should be provided to fund the activities under the Programme, particularly the activities related to the deployment of its infrastructure.
- (35) *In order to ensure that the Programme is implemented successfully, it is important to ensure that sufficient resources are available. Member States should be able to contribute with their technical competence, know-how and assistance, in particular in the fields of safety and security, or, where appropriate and possible, by making available to the Programme the data, information, services and infrastructure located on their territory. The Programme should be able to receive additional financial contributions or in-kind contributions from third parties, including Union agencies and bodies, Member States, third countries participating in the Programme or international organisations, in line with the relevant agreements.*

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<sup>14</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 (OJ L 170, 12.5.2021, p. 149).

- (36) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>15</sup> (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.
- (37) 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.
- (38) The Commission ■ should be able to have recourse, as required and insofar as necessary, to the technical assistance of certain external parties, *insofar as Union security interests are preserved*. 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.

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<sup>15</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).

- (39) Public 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.
- (40) *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 impose a minimum level of subcontracting. As regards the latter, priority should be given, where possible, to start-ups and SMEs, particularly in order to enable their cross-border participation.*

- (41) 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, it is necessary to provide for the possibility to use all the relevant tools and management methods provided for by the *Treaty on the Functioning of the European Union (TFEU)* and the Financial Regulation and joint procurement procedures.

- (42) Public-private **cooperation** is the most appropriate scheme by which to ensure that the objectives of the Programme can be pursued. It **should** permit building upon the existing Union satellite communication technological and **industrial base, including private assets**, and providing robust and innovative governmental services, **and enabling private partners** to complement the Programme infrastructure with additional capabilities to offer commercial services **on market conditions** through additional own investments. Such a scheme **should** furthermore optimise deployment and operation costs by sharing development and deployment costs on components common to both governmental and commercial infrastructures, as well as operational costs by allowing a high level of capacity mutualisation. It **should also** stimulate innovation in **the European space ecosystem, including New Space**, by enabling the sharing of **research** and **development** risks between public and private partners.
- (43) **For the implementation of the Programme, the concession contracts, supply, service or works contracts or mixed contracts should follow** key principles. **Such contracts** should establish a clear distribution of tasks and responsibilities between the public and private partners, **including a clear allocation of risks between them, with a view to ensuring that the contractors assume responsibility for the consequences of any failings for which they are liable. The contracts should ensure that contractors do not receive overcompensation** for the provision of governmental services, allow the provision of commercial services to be established by the private sector and ensure an appropriate prioritisation of government-authorised users' needs. The **contracts** should **ensure that the provision of services based on commercial infrastructure preserves** the Union's essential interests and **the Programme's general and specific** objectives. **It is therefore important that there are measures** in place to **ensure that those essential interests and objectives are preserved. In particular, the Commission should be able to take necessary measures to ensure service continuity in the event that the contractor is unable to fulfil its obligations. The contracts should include adequate safeguards** to prevent, **inter alia, conflicts of interest and** potential distortions of competition stemming from the provision of commercial services, **undue discrimination or any other hidden indirect advantages. Such safeguards may** include separation of accounts between governmental and commercial services, **including the setting up of a structurally and legally separate entity from the vertically integrated operator for the provision of governmental services, as well as open, fair, reasonable** and non-discriminatory access to

infrastructure necessary for the provision of commercial services. *Therefore, commercial services should be available to existing terrestrial services providers under transparent and non-discriminatory conditions. The contracts* should foster the participation of start-ups and SMEs along the whole value chain ■ and across Member States.

(44) An important objective of the Programme is to ensure the security of the Union and of the Member States and to strengthen the resilience across key technologies and value chains *while preserving an open economy*. In specific cases, that objective requires conditions for eligibility and participation to be set, in order to ensure the protection of the integrity, security and resilience of the operational systems of the Union. That should not undermine the need for competitiveness and cost-effectiveness.



(45) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>16</sup> and Council Regulations (EC, Euratom) No 2988/95<sup>17</sup>, (Euratom, EC) No 2185/96<sup>18</sup> and (EU) 2017/1939<sup>19</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, the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, 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 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>20</sup>.

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<sup>16</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>17</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>18</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>19</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).

<sup>20</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).

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, the EPPO pursuant to Regulation (EU) 2017/1939, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (46) In order to ensure the protection of the financial interests of the Union, it is necessary to require 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.

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- (47) To optimise the efficiency and impact of the Programme, actions should be taken to promote the use and development of open standards, open source technologies and interoperability in the architecture of the secure connectivity system. A more open conception of that system could enable better synergies with other components of the Union Space Programme or national services and applications, optimise costs by avoiding duplication in the development of the same technology, improve reliability, foster innovation and reap the benefits of wide competition.***

- (48) Sound public governance of the Programme requires the clear distribution of responsibilities and tasks among the different actors involved to avoid unnecessary overlap and reduce cost overruns and delays. All the actors of the governance should support, within their field of competence and in accordance with their responsibilities, the achievement of the objectives of the Programme.
- (49) Member States have long been active in the field of space. They have systems, infrastructure, national agencies and bodies in that field. They are therefore able to make a major contribution to the Programme, especially in its implementation. They might cooperate with the Union to promote the Programme's services and applications and ensure coherence between the relevant national initiatives and the Programme. 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 ■ tasks in the implementation of the Programme. ***Where relevant, Member States should aim to ensure coherence and complementarity of their recovery and resilience plans with the Programme.*** Moreover, the Member States ■ should take all necessary measures to ensure the protection of the ground infrastructure *located* on their territories. In addition, Member States ***should be able to*** ensure that the frequencies necessary for the Programme are available and protected at the adequate level to allow for the full development and implementation of applications on the basis of the services offered, in compliance with Decision No 243/2012/EU of the European Parliament and of the Council<sup>21</sup>. ***The frequencies made available to the Programme should have no financial impact on the Programme.***

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<sup>21</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).

(50) In accordance with Article 17 of the Treaty on European Union (*TEU*) and as a 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. ■ The Commission should determine the main technical and operational requirements necessary to implement systems and services evolution. It should do so after consulting Member States' experts, users and other relevant *public or private* stakeholders. Finally, in accordance with Article 4(3) TFEU, the exercise of competence by the Union does not result in Member States being prevented from exercising their respective competences. However, to make good use of the Union funds, it is appropriate that the Commission ensures, as far as possible, the consistency of activities performed in the context of the Programme, with those of the Member States, *without creating any unnecessary duplication of efforts*.

- (51) Article 154 of 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 entrusted with the implementation of Union funds. If necessary, specific adjustments to those systems and procedures (supervisory measures), as well as the arrangements for the existing contracts, should be defined in the corresponding contribution agreement.
- (52) Given its worldwide coverage, the Programme has a strong international dimension. International partners, their governments and citizens will be recipients of the Programme's array of services with accrued benefits to the international cooperation of the Union and the Member States with those partners. For matters relating to the Programme, the Commission might coordinate, within its field of competence and on behalf of the Union, the activities on the international scene. ■

- (53) Building on the expertise developed in the past years in management, operation and service provision related to the Galileo and EGNOS components of the Union Space Programme, the Agency is the most appropriate body to implement, under the supervision of the Commission, **■** tasks relating to the operation of the governmental infrastructure and provision of governmental services. ***It should therefore develop further relevant capacities for that purpose.*** The Agency should ***then*** be entrusted with the ***provision of governmental services and should be able to be entrusted with all or part of the operational management of the governmental infrastructure.***
- (54) ***In relation to security, and given its experience in this area, the Agency should be responsible for ensuring, through its Security Accreditation Board, the security accreditation of the governmental services and infrastructure. Furthermore, subject to the operational readiness of the Agency, notably in terms of adequate levels of human resources, the Agency should perform the tasks entrusted to it by the Commission. Where possible, the Agency should leverage its expertise, for example, throughout the European Global Navigation Satellite System (EGNSS) activities.*** When entrusting tasks to the Agency, adequate human, administrative and financial resources should be made available ***to enable the Agency to fully carry out its tasks and missions.***

- (55) In order to ensure the operation of the governmental infrastructure and facilitate the provision of the governmental services, the Agency should be allowed to entrust, by means of contribution agreements, specific activities to other entities, within their respective fields of competence, under the conditions of indirect management that apply to the Commission *as laid down in the Financial Regulation*.
- (56) ESA is an international organisation with extensive expertise in the space domain, including in satellite communication, and is therefore an important partner in the implementation of the different aspects of the Union's space policy. In that regard, ESA should be able to provide ■ expertise to the Commission, including for the preparation *of specifications and implementation* of the technical aspects of the Programme. For that purpose, ESA *should* be entrusted with the *supervision of the* development and validation activities of the Programme, and support the evaluation of the contracts concluded in the context of the implementation of the Programme.

(57) Owing to the importance of space-related activities for the Union economy and the lives of Union citizens, 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 the Member States, including in relation to classified and sensitive non-classified information.

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(58) Given the specific expertise of the EEAS and its regular contact with authorities of third countries and international organisations, the EEAS should be able to assist the Commission in performing certain tasks relating to the security of the Programme in the field of external relations, in accordance with Council Decision 2010/427/EU<sup>33</sup>.

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<sup>33</sup> Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).



(59) 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 infrastructure is also the best *suited* 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 the Union Space Programme 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 *together with the Member States* the general security requirements applicable to the Programme. *In particular in the area of classified information, the security governance of the Programme should reflect the respective roles and fields of competence of the Council and the Member States in the evaluation and approval of cryptographic products for protecting EUCI.*

- (60) The cybersecurity *and physical security* of the Programme *infrastructure*, both ground and space, *as well as its physical redundancy, are* key to ensuring the continuity of the service and the operations of the system. The need to protect the system and its services against cyberattacks *and threats to satellites*, including by making use of new technologies, *and by supporting response to and recovery from such cyberattacks*, should therefore be duly taken into account when establishing general security requirements.
- (61) Where appropriate, after the risk and threat analysis, the Commission should identify a security monitoring structure. That security monitoring structure should be the entity responding to instructions developed under the scope of *Council* Decision (CFSP) 2021/698<sup>23</sup>.
- (62) Without prejudice to Member States' prerogatives in the area of national security, the Commission and the High Representative, each within their respective field of competence, should ensure the security of the Programme in accordance with this Regulation and, where relevant, **■** Decision (CFSP) 2021/698.

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<sup>23</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 (OJ L 170, 12.5.2021, p. 178).*

- (63) The governmental services provided by the Programme will be used by the Union's governmental actors in security, *defence*, safety-critical missions *and operations, as well as the protection of critical infrastructure*. Therefore, such services and infrastructure should be subject to security accreditation.
- (64) It is 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 necessary that technical security accreditation activities are conducted by professionals who are duly qualified in the field of accreditation of complex systems and who have an adequate level of security clearance.

- (65) Under Article 17 TEU, the Commission is responsible for the management of programmes which, in accordance with rules set out in the Financial Regulation, can be sub-delegated to third parties under indirect management. In that context, it is necessary that the Commission ensure that the tasks performed by third parties to implement the Programme under indirect management do not undermine the security of the Programme in particular as regards the control of classified information. It should therefore be clarified that where the Commission entrusts ESA to carry out tasks under the Programme, the corresponding contribution agreements are to ensure that classified information generated by ESA be considered to be *EU CI* in accordance with Council Decision 2013/488/EU<sup>26</sup> and Commission Decision (EU, Euratom) 2015/444<sup>25</sup> and [ ] created under the authority of the Commission.
- (66) The governmental services of the Programme *could* be used in security and safety critical missions and operations by Union and Member State actors. Therefore, in order to protect the essential security interests of the Union and its Member States, measures to ensure a necessary level of non-dependence on third parties (third countries and entities from third countries) are needed, covering all Programme elements. Such measures *could include* space and ground technologies at component, subsystem or system level, manufacturing industries, owners and operators of space systems, and physical location of ground system components.
- (67) On the sole basis of an agreement to be concluded in accordance with Article 218 TFEU, 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 and other third countries may be allowed to participate in the Programme. [ ]
- (68) Pursuant to Council Decision (EU) 2021/1764<sup>27</sup>, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the

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<sup>26</sup> Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

<sup>25</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).

<sup>27</sup> Council Decision (EU) 2021/1764 of 5 October 2021 on the association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other (Decision on the Overseas Association, including Greenland) (OJ L 355, 7.10.2021, p. 6).

Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.

- (69) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>28</sup>, the 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. The evaluation of the Programme should take into account the findings of the evaluation of the Union Space Programme pertaining to the GOVSATCOM component carried out within the framework of Regulation (EU) 2021/696.
- (70) In order to ensure the continuing adequacy of the indicators to report on the progress of the Programme, as well as the Programme's monitoring and evaluation framework, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the Annex to this Regulation with regard to the indicators, **■** of supplementing this Regulation with provisions on the establishment of a monitoring and evaluation framework and of supplementing this Regulation *by specifying the characteristics of a database of the Programme's space assets, as well as the methodology and the processes to maintain and update it*. 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.

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<sup>28</sup> OJ L 123, 12.5.2016, p. 1.

- (71) In the interests of sound public governance and given the synergies between the Programme and the **GOVSATCOM component**, the Programme committee established within the framework of Regulation (EU) 2021/696 in the GOVSATCOM configuration should also serve as the committee for the purposes of the Programme. For matters pertaining to the security of the Programme, the Programme committee should meet in a dedicated security configuration.
- (72) 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 of the European Parliament and of the Council<sup>29</sup>. For the same reasons, representatives of third countries and international organisations who have concluded an international agreement with the Union, relating to the Programme, 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.

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<sup>29</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).*

- (73) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to the adoption of: the ***detailed rules on the provision of governmental services***, the operational requirements for governmental services, the service portfolio for governmental services, ***the contribution decisions regarding the contribution agreements and the work programmes***, as well as establishing additional requirements for the participation of third countries and international organisations in the Programme. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (74) ***Governmental services that are based on governmental infrastructure*** should, ***as a general rule***, be provided free of charge to ***government-authorised*** users. ***However, capacity for those services is limited***. If, after analysis, the Commission concludes that there is a shortage of capacities, it should be permitted to ***adopt*** a pricing policy, ***in duly justified cases where demand exceeds the access capacity***, as part of those detailed rules on the service provision, to ***match the supply and demand of services***. ***In order to ensure uniform conditions for the implementation of this Regulation, implementing powers relating to the adoption of*** such a pricing policy should be conferred ***on the Commission***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.



(75) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers relating to *laying down measures required to determine* the location of the *centres belonging to the ground* governmental infrastructure 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.

(76) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers relating to determining general security requirements 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 general 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 Programme 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. *Where the involvement of the security configuration of the Programme committee is otherwise provided for, such involvement should take place in accordance with the rules of procedure of the Programme committee.*

(77) *The Programme complements the existing Union Space Programme by integrating and extending its objectives and actions to create a secure and space-based connectivity system for the Union. The evaluation of the Programme should take this into account.*

- (78) Since the objectives 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 those objectives.
- (79) *The Programme should be established for a period of five 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>31</sup> ('MFF 2021-2027').*
- (80) *In order to allow for the implementation of this Regulation to start as soon as possible, with a view to reaching its objectives, it should enter into force as a matter of urgency,*

HAVE ADOPTED THIS REGULATION:

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<sup>31</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 433I, 22.12.2020, p. 11).*

# Chapter I

## General provisions

### Article 1

#### Subject matter

■ This Regulation establishes the Union Secure Connectivity Programme (the ‘Programme’) *for the remaining duration* of the *MFJ 2021-2027*. *It lays down the objectives* of the Programme, the budget for the period 2023-2027, the forms of Union funding and the rules for providing such funding, as well as the rules for the implementation of the Programme, *taking into account Regulation (EU) 2021/696*.

### Article 2

#### Definitions

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

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- (1) *‘spacecraft’ means a spacecraft as defined in Article 2, point (1), of Regulation (EU) 2021/696;*
  - (2) *‘space debris’ means space debris as defined in Article 2, point (4), of Regulation (EU) 2021/696;*
  - (3) ‘payload’ means equipment carried by a spacecraft for the performance of a particular mission in space;

- (4) ‘**■** space *ecosystem*’ means *a network of interacting undertakings operating in value chains in the space sector, from the smallest start-ups to the largest undertakings, encompassing the upstream and downstream segments of the space market;*
- (5) ‘European Quantum Communication Infrastructure’ *or* ‘EuroQCI **■**’ means an interconnected space, *ground and terrestrial* infrastructure *integrated into* the secure connectivity system, using quantum-based technology **■** ;
- (6) ‘GOVSATCOM Hub’ *means a GOVSATCOM hub as* defined in Article 2, *point* (23), of Regulation (EU) 2021/696;

**■**

- (7) ‘**the Agency**’ means the European Union Agency for the Space Programme established by Regulation (EU) 2021/696;
- (8) ‘*EU classified information*’ or ‘*EUCI*’ means *EU classified information or EUCI as defined in Article 2, point (25), of Regulation (EU) 2021/696;*
- (9) ‘*sensitive non-classified information*’ means *sensitive non-classified information as defined in Article 2, point (26), of Regulation (EU) 2021/696;*
- (10) ‘*blending operation*’ means *a blending operation as defined in Article 2, point (27), of Regulation (EU) 2021/696.*

## Article 3

### Programme objectives

1. The general *objectives* of the Programme *shall be to*:
  - (a) ensure the *provision and* long-term availability *within the Union's territory and* worldwide uninterrupted access to secure, *autonomous, high-quality, reliable* and cost-effective satellite *governmental* communication services to government-  
authorised users, *by establishing a multi-orbital, secure connectivity system under  
civil control and by supporting the* protection of critical infrastructures, *within the  
meaning of Council Directive 2008/114/EC<sup>1</sup>, situational awareness*, external  
actions, crisis management and applications that are critical for the economy, *the  
environment, security and defence*, thereby increasing the resilience *and the  
autonomy of the Union and the* Member States, *and reinforcing their satellite  
communication technological and industrial base, while avoiding excessive  
reliance on non-Union based solutions, in particular for critical infrastructure and  
access to space*;

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<sup>1</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).

- (b) ***enable*** the provision of commercial services, ***or services offered to government-  
authorised users based on commercial infrastructure at market conditions***, by the private sector in ***accordance with the Union's applicable competition law, in order to facilitate, inter alia, the further development of worldwide high-speed broadband and seamless connectivity as well as removing communication dead zones and increasing cohesion across Member States' territories, while bridging the digital divide and contributing, where applicable, to the general objectives referred to ~~laid down~~ in Article 3 of Directive (EU) 2018/1972.***

2. The ***specific objectives of the Programme shall be to:***

- (a) ***complement and integrate the existing and future capacities of the GOVSATCOM component into the secure connectivity system;***
- (b) ***improve the resilience, security and autonomy of the Union's and Member States' communication services;***

- (c) develop further and gradually integrate EuroQCI into the secure connectivity system;*
- (d) ensure the right of use of orbital slots and relevant frequencies;*
- (e) increase the robustness of the Union's and the Member States' communication services and the cyber resilience of the Union, by developing redundancy, passive, proactive and reactive cyber protection and operational cybersecurity and protective measures against cyber threats and other measures against electromagnetic threats;*
- (f) enable, where possible, the development of communication and additional non-communication services, in particular by improving components of the Union Space Programme, creating synergies between them and expanding their capabilities and services, as well as the development of non-communication services to be provided to Member States, by hosting additional satellite subsystems, including payloads;*
- (g) encourage innovation, efficiency, as well as the development and use of disruptive technologies and innovative business models throughout the European space ecosystem, including New Space actors, new entrants, start-ups and SMEs, in order to strengthen the competitiveness of the Union space sector;*



*(h) improve secure connectivity over geographical areas of strategic interest, such as Africa and the Arctic as well as the Baltic, the Black Sea, Mediterranean regions and the Atlantic;*

*(i) enhance the safety and sustainability of outer space activities, by implementing appropriate measures to ensure and to promote responsible behaviour in space when implementing the Programme, including through seeking to prevent the proliferation of space debris.*

*3. The prioritisation and development of the additional non-communication services referred to in paragraph 2, point (f), of this Article and their respective funding shall comply with the objectives of Regulation (EU) 2021/696 and shall be examined by the Programme committee meeting in the relevant configuration, as set out in Regulation (EU) 2021/696.*

## Article 4

### **Programme activities**

1. The provision of the governmental services referred to in Article *10(1)* shall be ensured through the *following phased activities, which shall complement and integrate the GOVSATCOM component into the secure connectivity system*:
  - (a) *the definition, design, development, validation and related deployment activities* for the construction of the space and ground infrastructure required for the provision of the *first* governmental services *by 2024*;
  - (b) ~~the gradual~~ deployment activities to complete the space and ground infrastructure required for the provision of *advanced* governmental services, in order *to meet the needs of government-authorized users as soon as possible, aiming to achieve full operational capability by 2027*;
  - (c) *the development and deployment of EuroQCI for the purpose of its gradual integration into the secure connectivity system*;

(d) exploitation activities providing governmental services, comprising *the operation, maintenance, continuous improvement and protection of the space and ground infrastructure, including replenishment and obsolescence management;*

■

(e) *the* development of future generations of ■ space and ground infrastructure and the evolution of ■ governmental services.

2. *The provision of commercial services shall be ensured by the contractors referred to in Article 19.*

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## Article 5

### Infrastructure of the secure connectivity system

1. *The secure connectivity system shall be established by defining, designing, developing, building and operating a multi-orbital connectivity infrastructure, adjusted to the evolution of governmental demand for satellite communications and offering low latency. It shall be modular in order to fulfil the objectives referred to in Article 3 and to establish the service portfolio for governmental services laid down in Article 10(1). It shall complement and integrate the existing and future capacities used in the framework of the GOVSATCOM component. It shall consist of a governmental infrastructure, as referred to in paragraph 2 of this Article, and a commercial infrastructure, as referred to in paragraph 4 of this Article.*

2. The governmental infrastructure of the secure connectivity system shall include all the related ground and space assets which are required for the provision of the governmental services, as laid down in Article **10(1), points (a) and (b)**, of this Regulation, including the following assets:
- (a) ***either*** satellites or satellite ***subsystems, including payloads***;
  - (b) ***EuroQCI***;
  - (c) infrastructure for monitoring the security of the ***governmental*** infrastructure and ***governmental*** services;
  - (d) ***ground*** infrastructure for the provision of the services to government-authorised users, ***including the GOVSATCOM ground segment infrastructure, which is to be scaled up, in particular the GOVSATCOM Hubs referred to in Article 67 of Regulation (EU) 2021/696.***

■

The governmental infrastructure shall *host, where appropriate*, additional *satellite subsystems, in particular* payloads, that may be used as part of the space-based infrastructure of the components of the Union Space Programme referred to in Article 3 of Regulation (EU) 2021/696 under the terms and conditions set out in that Regulation, *as well as satellite subsystems used for the provision of non-communication services to Member States*.

3. The Commission shall adopt, by means of implementing acts, where necessary, measures required to determine the location of the centres belonging to the ground governmental infrastructure, ■ in accordance with the general security requirements referred to in Article 30(3) of this Regulation, following an open and transparent process. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 47(3) of this Regulation.

For the protection of the security interests of the Union and its Member States the centres referred to in the first subparagraph of this paragraph shall be, where possible, located in the territory of the Member States and governed by a hosting agreement in the form of an administrative agreement between the Union and the Member State concerned.

Where it is not possible to locate the centres in the territory of the Member States, the Commission may determine the location of such centres in the territory of *members of EFTA which are members of the EEA or in the territory of another* third country, subject to a hosting agreement between the Union and the third country concerned concluded in accordance with Article 218 TFEU.

Notwithstanding the first subparagraph of this paragraph, the location of the GOVSATCOM Hubs shall be determined in accordance with Article 67(2) of Regulation (EU) 2021/696.

4. The commercial infrastructure of the secure connectivity system shall include all space and ground assets other than those being part of the governmental infrastructure. The commercial infrastructure *shall not impair the performance or security of the governmental infrastructure*. The commercial infrastructure *and any related risks* shall be entirely financed by the *contractors referred to in Article 19, in order to fulfil the objective* referred to in Article 3(1), point (b).
  
5. In order to protect the security interests of the Union, the space assets of the *governmental infrastructure* shall be launched by *existing and future service providers, including those using small launchers and microlaunchers, that comply* with the eligibility and participation conditions set out in Article 22 *and, only in justified exceptional circumstances*, from the territory of *a third country*.



## Article 6

### Ownership and use of assets

1. The Union shall be the owner of all tangible and intangible assets ***which form part of the governmental infrastructure developed under the Programme, as referred to in Articles 5(2) and 19(10), with the exception of the EuroQCI terrestrial infrastructure, which shall be owned by the Member States.*** To that end, the Commission shall ensure that contracts, agreements and other arrangements concerning activities that may result in the creation or development of such assets contain provisions ensuring the Union's ownership of those assets.
2. **■** The Commission shall ensure that the Union has the following rights:
  - (a) the right of use of the frequencies required for the transmission of the signals generated by the ***governmental infrastructure***, in accordance with the applicable laws and regulations and the relevant licensing agreements, ***enabled by the relevant filings for the frequencies provided by the Member States, which remain under the responsibility of the Member States;***
  - (b) the right to prioritise the provision of the governmental services over commercial services, in accordance with the terms and conditions to be established in the contracts referred to in Article ***19*** and by taking into consideration the ***needs of government-authorized users referred to in Article 12(1).***

3. ■ The Commission shall seek to conclude contracts, agreements or other arrangements with third parties, *including the contractors referred to in Article 19*, with regard to:
- (a) pre-existing ownership rights in respect of tangible and intangible assets which form part of the *governmental* infrastructure;
  - (b) the acquisition of the ownership or license rights in respect of other tangible and intangible assets necessary for the implementation of the *governmental infrastructure*.
4. Where the assets referred to in paragraphs 1, 2 *and* 3 consist of intellectual property rights, the Commission shall manage those rights as effectively as possible, taking into account:
- (a) the need to protect and give value to the assets;
  - (b) the legitimate interests of all stakeholders concerned;
  - (c) the need to ensure competitive and well-functioning markets and to develop new technologies;
  - (d) the need for the continuity of the services provided by the Programme.

5. The Commission shall, *where appropriate*, ensure 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 such third parties can freely enjoy those rights where necessary for carrying out their tasks under this Regulation.

## Article 7

Actions in support of an innovative and competitive Union space *ecosystem*

1. ***In accordance with the objective referred to in Article 3(2), point (g), of this Regulation, the Programme shall support an innovative and competitive Union space ecosystem, including New Space*** ■ , and in particular the activities set out in Article 6 of Regulation (EU) 2021/696 ■ .
2. The Commission shall ***stimulate innovation in the Union space ecosystem, including New Space, throughout the duration of the Programme*** by:
  - (a) establishing criteria for the award of the contracts referred to in Article 19, ensuring the ***widest*** participation of start-ups and SMEs from across the Union and along the whole ■ value chain;

- (b) requiring that the *contractors* referred to in Article 19 *provide* a plan *to maximise, in accordance with Article 21*, the integration of *new entrants*, start-ups and SMEs from across the Union in the activities under the contracts referred to in Article 19;
- (c) requiring, through the contracts referred to in Article 19, *that new entrants*, start-ups, *SMEs and mid-cap companies from across the Union* are able to deliver their own services to end-users;
- (d) *promoting the use and development of open standards, open source technologies and interoperability in the architecture of the secure connectivity system, in order to allow synergies, optimise costs, improve reliability, foster innovation and reap the benefits of wide competition;*
- (e) *promoting the development and production in the Union of critical technologies, which are required to exploit governmental services.*

3. *The Commission shall also:*

- (a) support the procurement and aggregation of service contracts for the needs of the Programme with the objective of leveraging and stimulating private investments in the long term, including through joint procurement;*
- (b) promote **and encourage** stronger participation of women ■ and establish equality and inclusion goals in the tender documentation;*
- (c) contribute to the development of advanced skills in space-related fields and to training activities.*

#### *Article 8*

##### *Environmental and space sustainability*

1. *The Programme shall be implemented with a view to ensuring environmental and space sustainability. To that end, the contracts and procedures referred to in Article 19 shall include provisions on:*

- (a) the minimisation of greenhouse gas emissions generated by the development, production and deployment of the infrastructure;*
- (b) the establishment of a scheme to offset the remaining greenhouse gas emissions;*

- (c) appropriate measures to reduce visible and invisible radiation pollution caused by spacecraft, and that can hamper astronomical observations or any other type of research and observations;*
  - (d) the use of appropriate collision-avoidance technologies for spacecraft;*
  - (e) the submission and implementation of a comprehensive mitigation plan regarding space debris before the deployment phase, including orbital positioning data, in order to ensure the avoidance of space debris by the satellites of the constellation.*
- 2. The contracts and procedures referred to in Article 19 of this Regulation shall include an obligation to provide data, in particular ephemeris data and planned manoeuvres, to the entities in charge of producing SST information as defined in Article 2, point (10), of Regulation (EU) 2021/696 and SST services as referred to in Article 55 of that Regulation.*
- 3. The Commission shall ensure that a comprehensive database of the Programme's space assets, containing, in particular, data relating to environmental and space sustainability aspects, is maintained.*

4. *The Commission shall adopt delegated acts, in accordance with Article 45, in order to supplement this Regulation by specifying the characteristics of, and establishing the methodology and the processes to maintain and update the database referred to in paragraph 3 of this Article.*
5. *The scope of delegated acts adopted in accordance with paragraph 4 shall be limited to:*
  - (a) *the space assets owned by the Union, as referred to in Articles 5(2) and 19(10);*
  - (b) *the space assets owned by the contractors referred to in Article 19, as referred to in Articles 5(4) and 19(10).*

## Chapter II

### Services *and participants*

#### Article 9

##### Governmental services

1. Governmental services shall be provided to the Programme participants referred to *in* Article *11(1)*, (2) and (3).

2. The Commission shall adopt, by means of implementing acts, detailed rules on the provision of governmental services, **by** taking into account Article 66 of **Regulation (EU) 2021/696, on the basis of the consolidated demand of current and anticipated needs** for the different **services as identified together with the Member States**, and dynamic allocation of the resources and prioritisation of the governmental services **between different Programme participants** according to relevance and criticality of the users' needs and, where appropriate, cost-efficiency.
3. **The governmental services referred to in Article 10(1)** shall be **provided** free of charge to **government-authorised** users.
4. **The Commission shall purchase the services referred to in Article 10(2), under market conditions, in accordance with the applicable provisions of the Financial Regulation with the objective of guaranteeing the provision of those services to all Member States. The precise capacity and budget allocation for those services shall be determined in the implementing act referred to in paragraph 2 of this Article on the basis of input from the Member States.**



5. By way of derogation from paragraph 3 *of this Article*, the Commission *shall*, in duly justified cases, *where strictly necessary to match supply and demand of governmental services*, adopt, by means of implementing acts, a pricing policy, *which shall be consistent with the pricing policy referred to in Article 63(1) of Regulation (EU) 2021/696*.

By adopting a pricing policy, the Commission shall ensure that the provision of the governmental services does not distort competition, that there is no shortage of the governmental services and that the price identified will not result in an overcompensation of the *contractors referred to in Article 19*.

6. The implementing acts referred to in paragraphs 2 and 5 of this Article shall be adopted in accordance with the examination procedure referred to in Article 47(3).

■

7. *The gradual provision of governmental services shall be ensured as laid down in the service portfolio referred to in Article 10(1), subject to the availability of the infrastructure of the secure connectivity system, following the implementation of the activities set out in Article 4(1), points (a) and (b), and building on and leveraging existing services and capabilities as appropriate.*
8. *Equal treatment of the Member States shall be ensured when providing governmental services in accordance with their needs as referred to in Article 25(7).*

## Article 10

### *Service portfolio for governmental services*

1. *The service portfolio for governmental services shall be established in accordance with paragraph 4 of this Article. It shall comprise at least the following categories of service and shall complement the portfolio of GOVSATCOM services referred to in Article 63(3) of Regulation (EU) 2021/696:*
  - (a) *services restricted to government-authorised users based on governmental infrastructure, which require a high level of security and which are not suitable for services referred to in paragraph 2 of this Article, such as robust worldwide low-latency service or robust space data relay;*
  - (b) *quantum communication services, such as QKD services.*

2. *The service portfolio for governmental services shall also comprise services to government-authorised users based on the commercial infrastructure, such as assured worldwide low latency service or worldwide narrowband service.*
3. *The service portfolio for the governmental services shall also comprise the technical specifications for each category of service, such as geographical coverage, frequency, bandwidth, user equipment and security features.*
4. *The Commission shall adopt, by means of implementing acts, the service portfolio for governmental services. Those implementing acts shall be based on the operational requirements referred to in paragraph 5 of this Article, on input from the Member States and on the general security requirements referred to in Article 30(3).*

*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 47(3).*

5. The Commission shall adopt, by means of implementing acts, the operational requirements *for governmental services*, in the form of technical specifications *and implementation plans*, relating in particular to crisis management, *situational awareness*, key infrastructure management, including diplomatic *and defence* communication networks, *and other government-authorized users' needs*. Those operational requirements shall be based on the *requirements* of the *Programme users, tailored to cover the confirmed demand*, *and* shall take into account requirements stemming from existing user equipment and networks and operational requirements for GOVSATCOM services *adopted in accordance with* Article 63(2) of *Regulation (EU) 2021/696*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article *47(3) of this Regulation*.

6. The terms and conditions for the provision of services, *and related risks, provided through the commercial infrastructure* shall *be determined* in the *contracts* referred to in Article *19*.

## Article 11

### Programme participants and competent authorities

1. Member States, the Council, the Commission and the EEAS shall be Programme participants insofar as they authorise the users of the governmental services *or provide capacities, sites or facilities*.
2. Union agencies and bodies may become Programme participants insofar as necessary to fulfil their tasks and in accordance with detailed rules laid down in an administrative arrangement concluded between the agency or body concerned and the Union institution that supervises it.
3. Third countries and international organisations may become Programme participants in accordance with Article 39.

4. Each Programme participant shall designate one competent secure connectivity authority.
- Programme participants shall be deemed to comply with the requirement referred to in the first subparagraph if they satisfy both of the following criteria:
- (a) they are also GOVSATCOM participants in accordance with Article 68 of Regulation (EU) 2021/696;
  - (b) they have designated a competent authority in accordance with Article 68(4) of *Regulation (EU) 2021/696*.
5. *The prioritisation of governmental services between the users authorised by each Programme participant shall be determined and implemented by that Programme participant.*
6. A competent secure connectivity authority as referred to in paragraph 4 shall ensure that:
- (a) the use of *governmental* services is in compliance with the general security requirements *referred to in Article 30(3)*;
  - (b) the access rights to the governmental services are determined and managed;

- (c) user equipment necessary for the use of the governmental services and associated electronic communication connections and information are used and managed in accordance with the general security requirements referred to in Article 30(3);
- (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 the Programme.

## Article 12

### Users of the governmental services

1. The following entities may be authorised as users of governmental services:
  - (a) a Union or Member State public authority or a body entrusted with the exercise of public authority;
  - (b) a natural or legal person acting on behalf and under the control of an entity referred to in point (a).
2. The users of governmental services referred to in paragraph 1 of this Article shall be duly authorised by the Programme participants referred to in Article 11 to use the governmental services and shall comply with the general security requirements referred to in Article 30(3).

## Chapter III

### Budgetary contribution and *funding* mechanisms ■

#### Article 13

#### Budget

1. The financial envelope for the implementation of the Programme for the period from 1 January 2023 to 31 December 2027 and for covering the associated risks shall be EUR **1,65** billion in current prices.

The *amount referred to in the first subparagraph shall be distributed indicatively* from the MFF 2021-2027 as follows:

- (a) EUR **1 billion** from Heading 1 (*Single Market, Innovation and Digital*);
  - (b) EUR **0,5 billion** from Heading 5 (*Security and Defence*);
  - (c) EUR **0,15 billion** from Heading 6 (*Neighbourhood and the World*).
2. The Programme shall be complemented by *an amount of EUR 0,75 billion* implemented under the Horizon Europe Programme, the *GOVSATCOM component* and the Neighbourhood, Development and International Cooperation Instrument (NDICI) for a maximum indicative amount of EUR **0,38** billion, EUR 0,22 billion and EUR 0,15 billion, respectively. That funding shall be implemented in *compliance with the objectives, rules and procedures set out*, respectively, *in* Regulation (EU) 2021/695 *and Decision (EU) 2021/764, and Regulations* (EU) 2021/696 and *(EU) 2021/947*.



3. The amount referred to in paragraph 1, *first subparagraph, of this Article shall* be used to cover all the activities required to fulfil the objectives referred to in Article 3(1), *point (a), and to cover the purchase of services referred to in Article 9(4)*. Such expenditure may also 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 implemented by the Commission, including in the field of security;
  - (d) technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

4. *Actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.*
5. The budgetary commitments for activities extending over more than one financial year may be broken down over several years into annual instalments.
6. *Resources allocated to Member States under shared management may, at the request of the Member State concerned, be transferred to the Programme, subject to the conditions set out in Article 26 of Regulation (EU) 2021/1060 of the European Parliament and of the Council<sup>33</sup>. The Commission shall implement those resources directly in accordance with Article 62(1), first subparagraph, point (a), 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.*

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<sup>33</sup> *Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 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 (OJ L 231, 30.6.2021, p. 159).*

## Article 14

### Cumulative and alternative funding

An action that has received a contribution from another Union programme, including funds under shared management, may also receive a contribution under the 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 funding 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.

## Article 15

### *Additional* contributions to the Programme

1. The Programme may receive additional financial contributions or contributions in-kind from *any of the following*:
  - (a) Union agencies and bodies;
  - (b) Member States, *in accordance with relevant agreements*;

(c) third countries participating in the Programme, *in accordance with relevant agreements*;

(d) international organisations, in accordance with relevant agreements.

2. The additional financial contribution referred to in paragraph 1 of this Article and revenues pursuant to Article 9(5) of *this Regulation* shall be treated as external assigned revenue in accordance with Article 21(5) of *the* Financial Regulation .

## *Article 16*

### *ESA contribution*

*ESA, in accordance with its own internal rules and procedures, may contribute through ESA optional programmes to the Programme's development and validation activities resulting from the procurement approach referred to in Article 19(1), while protecting the essential security interests of the Union and its Member States.*

*Article 17*

*Private sector contribution*

*The contractors referred to in Article 19 shall entirely finance the commercial infrastructure referred to in Article 5 in order to fulfil the objective referred to in Article 3(1), point (b).*

*Article 18*

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 the Article 62(1), first subparagraph, point (c), of the Financial Regulation.
2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.

## Chapter IV

### Implementation of the Programme

#### Article 19

##### Implementation model

- 1. The Programme shall be implemented, as appropriate, in a phased approach until the completion of the activities set out in Article 4. The Commission, in coordination with the Member States, shall ensure that the procurement approach allows for the widest competition possible in order to foster appropriate participation of the entire industrial value chain for the contracts related to the provision of the services referred to in Article 10(1) and the contracts related to the purchase of the services referred to in Article 10(2).*
- 2. The activities set out in Article 4 of this Regulation shall be implemented through **several** contracts awarded in compliance with the Financial Regulation and the principles of procurement under Article 20 of this Regulation **and may take the form of concession contracts, supply, service, or works contracts or mixed contracts.***

3. *The contracts referred to in this Article shall be procured under direct or indirect management and may take the form of an inter-institutional procurement, as referred to in Article 165(1) of the Financial Regulation, between the Commission and the Agency, whereby the Commission shall assume the role of lead contracting authority.*
4. *The procurement approach referred to in paragraph 1 of this Article and the contracts referred to in this Article shall comply with the implementing acts referred to in Articles 9(2), 10(4) and 10(5).*
5. *If the result of the procurement approach referred to in paragraph 1 of this Article takes the form of concession contracts, those concession contracts shall set out the architecture of the governmental infrastructure of the secure connectivity system, roles, responsibilities, financial scheme and the allocation of risks between the Union and the contractors, by taking into account the ownership regime under Article 6 and the funding of the Programme under Chapter III.*

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6. *If a concession contract is not awarded, the Commission shall ensure an optimal implementation of the objective referred to in Article 3(1), point (a), by procuring, as appropriate, a supply, service or works contract or a mixed contract.*
7. *The Commission shall take the necessary measures to ensure continuity of the governmental services if the contractors referred to in this Article are unable to fulfil their obligations.*
8. Where appropriate, the procurement procedures for the contracts referred to in this Article may also take the form of joint procurements with Member States, in accordance with Article 165(2) of the Financial Regulation.



9. The contracts referred to in this Article shall *in particular ensure that the provision of services based on commercial infrastructure preserves the Union's essential interests and the Programme's general and specific objectives referred to in Article 3. Those contracts shall also* include adequate safeguards to avoid any overcompensation of the *contractors referred to in this Article*, distortions of competition, *conflicts* of interest, undue discrimination *or* any other hidden indirect advantages. *Such safeguards may include the obligation of accounting separation between the provision of governmental services and the provision of commercial services, including the setting up of a structurally and legally separate entity from the vertically integrated operator for the provision of governmental services, and the provision of open, fair, reasonable and non-discriminatory access to the infrastructure necessary for the provision of commercial services. The contracts shall also ensure that the conditions of Article 22 are met throughout their duration.*
10. *Where the governmental and commercial services rely on common subsystems or interfaces to ensure synergies, the contracts referred to in this Article shall also determine which of those interfaces and common subsystems shall be part of the governmental infrastructure in order to ensure the protection of the security interests of the Union and its Member States.*

## Article 20

### Principles of procurement

1. **Public** procurement under the Programme shall be carried out in accordance with the rules on procurement laid down in the Financial Regulation.
2. In **public** procurement procedures for the purpose of the Programme, complementing the principles laid down in the Financial Regulation, the contracting authority shall act in accordance with the following principles:
  - (a) to promote in all Member States **across** the Union and throughout the supply chain, the widest and most open participation possible by economic operators, in particular new entrants, start-ups and SMEs, including in the case of subcontracting by the tenderers;
  - (b) to ensure effective competition in the tendering process, **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) to follow the principles of open access and competition, 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;

- (d) to protect the security and public interest of the Union and its Member States, including through a reinforcement of the *strategic* autonomy of the Union, in particular in technological terms, *by performing risk assessments and implementing disruption risk mitigation measures, for instance when only one supplier is available*;
- (e) to comply with the general security requirements referred to in Article 30(3) and to contribute to the protection of the essential security interests of the Union and its Member States;
- (f) by way of derogation from Article 167 of the Financial Regulation, to use, where appropriate, multiple supply sources in order to ensure better overall control of the Programme, *its* cost and schedule;
- (g) to promote service *accessibility*, continuity and reliability;
- (h) to *enhance the safety and sustainability of outer space activities, by implementing appropriate measures in accordance with the provisions set out in Article 8*;
- (i) to ensure the effective promotion of equal opportunities for all, the implementation of gender mainstreaming and of the gender dimension and to aim to address the causes of gender imbalance, paying particular attention to ensure gender balance in evaluation panels.

## Article 21

### Subcontracting

1. To encourage new entrants, start-ups and SMEs ***across the Union*** 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 subcontract part of the contract by competitive tendering at the appropriate levels of subcontracting to companies other than those ***which belong to*** the tenderer's group.
2. ***For contracts above EUR 10 million, the contracting authority shall 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, in particular in order to enable the cross-border participation of SMEs in the space ecosystem.***
3. The tenderer shall provide reasons for not fulfilling a request made under paragraph 1 ***or for deviating from the percentage referred to in paragraph 2.***

4. *The Commission shall inform the Programme committee referred to in Article 47 of the fulfilment of the objectives referred to in paragraphs 1 and 2 of this Article for contracts signed after ... [the date of entry into force of this Regulation].*


## Article 22

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

Eligibility and participation conditions shall apply to the award procedures carried out in the implementation of the Programme, where necessary and appropriate to preserve the security, integrity and resilience of the operational Union systems as set out in Article 24 of Regulation (EU) 2021/696, 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.

## Article 23

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.

## Chapter V

### Governance of the Programme

#### Article 24

##### Principles of governance

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

- (a) a clear distribution of tasks and responsibilities between the entities involved in the implementation of the Programme;
- (b) ensuring the relevance of the governance structure to the specific needs of the Programme and measures, as appropriate;
- (c) strong control of the Programme, including strict adherence to cost, schedule and performance by all the entities, according to their respective roles and the tasks conferred on them, in accordance with this Regulation;
- (d) transparent and cost-efficient management;
- (e) service continuity and necessary infrastructure continuity, including ***security monitoring and management, and*** protection from relevant threats;

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

## Article 25

### Role of the Member States

1. The Member States *may* 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 **Programme** the data, information, services and infrastructure ■ located on their territory.
2. Where *possible*, the Member States shall *aim to* ensure coherence and complementarity of **the relevant activities and interoperability of their capacities under** their recovery and ■ resilience plans under Regulation (EU) 2021/241 of the European Parliament and of the Council<sup>34</sup> *with* the Programme.
3. The Member States shall take all the necessary measures to ensure the smooth functioning of the Programme ■ .

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<sup>34</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

4. *The Member States may help to secure and 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 **governmental** services provided by the Programme.
6. In the field of security, the Member States shall perform the tasks referred to in Article 42 of Regulation (EU) 2021/696.
7. The Member States shall provide their operational needs *in order to consolidate the capacity and further detail the specifications of* their governmental services. *They shall also advise the Commission on any matter within their respective fields of competence, in particular by providing input for the preparation of the implementing acts.*



8. *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 47(2).*

## Article 26

### 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 evolution of the Programme, in line with the **duly established** user requirements, and shall supervise its implementation, without prejudice to other policies of the Union.

2. 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 interests of the Union, guarantee the sound management of the Union's funds and comply with the Financial Regulation and this Regulation.
3. The Commission shall procure, award and sign the contracts referred to in Article 19.
4. The Commission may entrust tasks concerning the Programme to the Agency and ESA under indirect management, according to their respective roles and responsibilities, as set out under Articles 27 and 28. In order to facilitate the achievement of the objectives referred to in Article 3 and promote the most efficient cooperation between the Commission, the Agency and ESA, the Commission may establish contribution agreements with each entrusted entity.

***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 47(2).***

5. Without prejudice to the tasks of the *contractors* referred to in Article **19**, the Agency or other entrusted entities, the Commission shall ensure **■** the uptake and use of the *governmental services*. It shall ensure complementarity, consistency, synergies and links between the Programme and other Union actions and programmes.
6. Where appropriate, the Commission shall ensure the coherence of activities performed in the context of the Programme with *the* activities *already* carried out in the space domain at Union, national or international level. It shall encourage cooperation between the Member States, *facilitate interoperability of their technological capacities and developments in the space domain*, and, where relevant to the Programme, *aim to ensure coherence of the secure connectivity system with the relevant activities and interoperability of capacities developed under the national recovery and resilience plans*.
7. The Commission shall inform the *European Parliament and the* Programme committee referred to in Article **47(1)** 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 27

### Role of the Agency

1. The own task of the Agency shall be to ensure, through its Security Accreditation Board, the security accreditation of the governmental infrastructure and governmental services in accordance with Chapter II of Title V of Regulation (EU) 2021/696.
2. The Commission **shall** entrust, by means of one or more contribution agreements, **subject to the operational readiness of the Agency, in particular in terms of adequate level of human resources**, the following tasks to the Agency:
  - (a) **all or part of the operational management** of the governmental infrastructure of the Programme;
  - (b) operational security of the governmental infrastructure, including risk and threat analysis, security monitoring, in particular setting technical specifications and operational procedures, and monitoring their compliance with the general security requirements referred to in Article **30(3)**.

- (c) provision of the governmental services, *in particular through the GOVSATCOM Hub*;
- (d) management of the contracts referred to in Article **19**, after their award and signature;
- (e) overarching coordination of user-related aspects of the governmental services in close collaboration with Member States, relevant Union agencies, the EEAS and other entities;
- (f) undertaking activities related to user uptake of services offered by the Programme without affecting the activities performed by the contractors under the contracts referred to in Article **19**.

3. *The Commission may entrust, by means of one or more contribution agreements, other tasks to the Agency, on the basis of the needs of the Programme.*
4. Where activities are entrusted to the Agency, appropriate financial, human and administrative resources shall be ensured for their implementation. For that purpose, the Commission may allocate part of the budget for the activities entrusted to the Agency for the funding of human resources necessary 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, within their respective fields of competence, under the conditions of indirect management applying to the Commission.

## Article 28

### Role of ESA

1. Provided that the interest of the Union is protected, ESA *shall*, within the field of its expertise, be entrusted with the following tasks:
  - (a) the supervision of the development, *of the validation and of the related deployment* activities referred to in Article 4(1), point (a), *and of the development and evolution* referred to in Article 4(1), point (e), *undertaken within the framework of contracts referred to in Article 19, in accordance with terms and conditions to be agreed in the contribution agreements* referred to in Article 26(4), *ensuring coordination between the tasks and budget entrusted to ESA under this Article and possible contribution by ESA, as* referred to in Article 16;
  - (b) the provision of *its* expertise to the Commission ■ including for the preparation *of specifications and implementation* of the technical aspects of the Programme;
  - (c) the provision of support with regard to the evaluation of contracts *concluded* under Article 19;
  - (d) *tasks related to the space and related ground segment of the EuroQCI referred to in Article 4(1), point (c).*

2. On the basis of an assessment by the Commission, ESA may be entrusted with other tasks on the basis of the needs of the Programme, provided that those tasks do not duplicate activities performed by another entity in the context of the Programme and that they aim to improve the efficiency of the implementation of the Programme's activities.

## Chapter VI

### Security of the Programme

#### Article 29

##### Principles of security

Article 33 of Regulation (EU) 2021/696 shall apply to the Programme.

#### Article 30

##### Governance of security

1. The Commission shall, within its field of competence and with the support of the Agency, ensure a high degree of security, in particular, with regard to:
  - (a) the protection of infrastructure, both ground and space, and of the provision of services, particularly against physical or cyberattacks, 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. *The Commission shall consult the Council and the Member States regarding the specification and design of any aspect of the EuroQCI infrastructure, in particular the QKD that relates to the protection of EU CI.***

*The evaluation and approval of cryptographic products for the protection of EU CI shall be carried out while respecting the respective roles and fields of competence of the Council and the Member States.*

*The security accreditation authority shall verify within the security accreditation process that only approved cryptographic products are used.*

3. For the purposes of paragraph 1 of this Article, the Commission shall ensure that a risk and threat analysis is performed for the governmental infrastructure referred to in Article 5(2). On the basis of that analysis, it shall determine, by means of implementing acts, the general security requirements. In doing so, the Commission shall take account of the impact of those requirements on the smooth functioning of the governmental infrastructure, in particular in terms of cost, risk management and schedule, and shall ensure that the general level of security is not reduced, the functioning of the equipment is not undermined and the cybersecurity risks are taken into account. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 47(3).
4. Article 34(3) to (7) of Regulation (EU) 2021/696 shall apply to the Programme. For the purposes of this Regulation, the term ‘component’ in Article 34 of Regulation (EU) 2021/696 shall be read as ‘governmental infrastructure’, ***including governmental services***, and all the references to Article 34(2) of Regulation (EU) 2021/696 shall be construed as references to paragraph 3 of this Article.

### Article 31

#### Security of the system and services deployed

Whenever the security of the Union or its Member States may be affected by the operation of the system or the provision of the governmental services, Decision (CFSP) **2021/698** shall apply.

### Article 32

#### Security accreditation authority

The Security Accreditation Board established within the Agency under Article 72(1), point (c), of Regulation (EU) 2021/696 shall be the security accreditation authority for the governmental infrastructure ***and related governmental services*** of the Programme.

## Article 33

### General principles of security accreditation

Security accreditation activities related to the Programme shall be conducted in accordance with the principles laid down in Article 37, points (a) to (j), of Regulation (EU) 2021/696. For the purposes of this Regulation, the term ‘component’ in Article 37 of Regulation (EU) 2021/696 shall be read as ‘governmental infrastructure’ and all the references to Article 34(2) of Regulation (EU) 2021/696 shall be construed as references to Article 27(2) of this Regulation.

## Article 34

### Tasks and composition of the Security Accreditation Board

1. Article 38, with the exception of paragraph 2, points (c) to (f), and of paragraph 3, point (b), and Article 39 of Regulation (EU) 2021/696 shall apply to the Programme.
2. ***The Security Accreditation Board shall have the following tasks, in addition to those referred to in paragraph 1:***
  - (a) ***examining and, except as regards documents which the Commission is to adopt under Article 30(3), approving all documentation relating to security accreditation;***

- (b) *advising, within its field of competence, the Commission on the production of draft texts for the acts referred to in Article 30(3), including for the establishment of security operating procedures, and providing a statement with its concluding position;*
- (c) *examining and approving the security risk assessment drawn up in accordance with the monitoring process referred to in Article 37, point (h), of Regulation (EU) 2021/696 and the risk and threat analysis drawn up in accordance with Article 30(3) of this Regulation, and cooperating with the Commission to establish risk mitigation measures.*

3. In addition to paragraph 1 and on an exceptional basis, *only* representatives of the contractors *involved in governmental infrastructure and services* may be invited to attend the meetings of the Security Accreditation Board, as observers, for matters directly relating to those contractors. *The arrangements and conditions for their attendance shall be laid down in the rules of procedure of the Security Accreditation Board.*

## Article 35

### Voting rules of the Security Accreditation Board

Article 40 of Regulation (EU) 2021/696 shall apply with regard to the voting rules of the Security Accreditation Board.

## Article 36

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

1. Article 41(1) to (4) of Regulation (EU) 2021/696 shall apply to the decisions of the Security Accreditation Board. For the purposes of this Regulation, the term ‘component’ in Article 41 of Regulation (EU) 2021/696 shall be read as ‘governmental infrastructure’.
2. The timetable for the work of the Security Accreditation Board shall not hamper the timetable of activities provided in the work programmes referred to in Article *41(1)*.

## Article 37

### Role of the Member States in security accreditation

Article 42 of Regulation (EU) 2021/696 shall apply to the Programme.

## Article 38

### Protection of classified information

1. Article 43 of Regulation (EU) 2021/696 shall apply to classified information related to the Programme.
2. ***Subject to the provisions of the agreement on the security and exchange of classified information between the Union institutions and ESA, ESA may generate EUCI with regard to the tasks entrusted to it pursuant to Article 28(1) and (2).***

## Chapter VII

### International relations

## Article 39

### Participation of third countries and international organisations in the Programme

1. In accordance with the conditions laid down in specific agreements concluded in accordance with Article 218 TFEU covering the participation of a third country to any Union programme, the Programme shall be open to the participation of members of EFTA which are members of EEA), as well as 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;
- (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;
- (c) third countries, other than those third countries covered in points (a) and (b).



2. The Programme shall be open to the participation of *an* international *organisation* in accordance with *a specific agreement* concluded in accordance with Article 218 TFEU.
3. The specific agreement referred to in paragraphs 1 and 2 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.



4. Without prejudice to the conditions laid down in paragraphs 1, 2 and 3, and in the interests of security, the Commission may, by means of implementing acts, establish additional requirements for the participation of third countries and international organisations in the Programme, to the extent compatible with the existing agreements referred to in *paragraphs 1 and 2*.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 47(3).

#### Article 40

##### Access to the governmental services by third countries and international organisations

Third countries and international organisations may have access to the governmental services provided that they:

- (a) conclude an agreement, in accordance with Article 218 TFEU, laying down the terms and conditions for access to governmental services;
- (b) comply with Article 43(1) of Regulation (EU) 2021/696.

For the purposes of this Regulation, the references to ‘the Programme’ in Article 43(1) of Regulation (EU) 2021/696 shall be construed as references to ‘the Programme’ established by this Regulation.

## Chapter VIII

### Programming, monitoring, evaluation and control

#### Article 41

##### Programming, monitoring and reporting

1. The Programme shall be implemented by work programmes as referred to in Article 110 of the Financial Regulation. The 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 work programmes shall complement the work programmes for GOVSATCOM component, as referred to in Article 100 of Regulation (EU) 2021/696.

The Commission shall adopt the work programmes by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 47(3).

2. Indicators to report on progress of the Programme towards the achievement of the general and specific objectives referred to in Article 3 are set out in the Annex.
3. The Commission is empowered to adopt delegated acts, in accordance with Article 45, 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.

4. Where imperative grounds of urgency so require, the procedure provided for in Article 46 shall apply to delegated acts adopted pursuant to this Article.
5. 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.

6. For the purposes of paragraph 2, 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 42

### Evaluation

1. The Commission shall carry out evaluations of the Programme in a timely manner to feed into the decision-making process.
2. By ... [*one year of the entry into force of this Regulation*] and every year thereafter, the Commission shall inform the European Parliament and the Council of the main findings regarding the initial implementation of the Programme, including the completion of definition activities, the consolidation of user needs and implementation plans, as well as the views of relevant stakeholders at Union and national level.

3. By **30 June 2026**, the Commission shall evaluate the implementation of the Programme ***in light of the objectives referred to in Article 3***. To that end, the Commission shall assess:
- (a) the performance of the ***secure connectivity system and*** services provided under the Programme, ***in particular low latency, reliability, autonomy and worldwide access***;
  - (b) ***the governance and implementation models, and their efficiency***;
  - (c) the evolution of needs of the users of the Programme;
  - (d) ***the synergy and complementarity of the Programme with other Union programmes, in particular GOVSATCOM and the other components of the Union Space Programme***;
  - (e) ***the evolution of available capacities, innovations, and development of new technologies in the space ecosystem***;
  - (f) ***the participation of start-ups and SMEs throughout the Union***;

- (g) the environmental impact of the Programme taking account of the criteria set out in Article 8;*
- (h) any cost overruns, the timeliness in meeting the established project deadlines and the effectiveness of the governance and management of the Programme;*
- (i) the effectiveness, efficiency, relevance, coherence, and Union added value of the Programme's activities.*

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

4. The evaluation of the Programme shall take into consideration the results of the evaluation of the GOVSATCOM component pursuant to Article 102 of Regulation (EU) 2021/696.
5. 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.
6. 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.

7. Two years after the full operational capability, and every two years thereafter, the Agency shall issue a market report, after consulting relevant stakeholders, on the impact of the Programme on the *Union* commercial satellite *upstream and downstream* industry with a view to ensuring the minimum possible impact on competition and the maintenance of incentives to innovate.

### Article 43

#### 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 44

### Personal data and privacy protection

All personal data handled in the context of the tasks and activities provided for in this Regulation, including by the Agency, shall be processed in accordance with the applicable law on personal data protection, in particular Regulations (EU) 2016/679<sup>35</sup> and (EU) 2018/1725 of the European Parliament and of the Council<sup>36</sup>.

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<sup>35</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 (OJ L 119, 4.5.2016, p. 1).

<sup>36</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).



## Chapter IX

### Delegated and implementing acts

#### Article 45

##### 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 8(4) and 41(3)* shall be conferred on the Commission until 31 December 2028.
3. The delegation of power referred to in *Articles 8(4) and 41(3)* 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 *Article 8(4) or Article 41(3)* 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 46

### 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 *45(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 47

### Committee procedure

1. The Commission shall be assisted by the Programme committee established by Article 107 of Regulation (EU) 2021/696, in the GOVSATCOM configuration. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of the adoption of implementing acts referred to in Articles **5(3) and 30(3)** of this Regulation, the Programme committee referred to in the first subparagraph of this paragraph shall meet in the security configuration referred to in Article 107(1), point (e), of Regulation (EU) 2021/696.

*For the purposes of the adoption of implementing acts referred to in Articles 9(2) and 10(4) of this Regulation, the Programme committee in the security configuration referred to in Article 107(1), point (e), of Regulation (EU) 2021/696 shall be duly involved.*

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 **30(3)** of this Regulation, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph of Regulation (EU) No 182/2011 shall apply.

## Chapter X

### Transitional and final provisions

#### Article 48

##### 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.
3. 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 3.

Article 49

Continuity of services after 2027

If necessary, appropriations may be entered in the Union budget beyond 2027 to cover the expenses necessary to fulfil the objectives referred to in Article 3, to enable the management of actions not completed by the end of the Programme, and to cover the expenses of critical operational activities and services provision.

Article 50

Entry into force

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

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

Done at ...,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## Annex

### INDICATORS FOR THE EVALUATION OF THE PROGRAMME

The Programme will be monitored closely on the basis of a set of indicators intended to measure the extent to which the specific objectives of the Programme have been achieved and with a view to minimising administrative burdens and costs. To that end, data will be collected as regards the following set of key indicators:

**1. General objective referred to in Article 3(1), point (a):**

***Indicator 1.1: Member States governments and Union institutions, bodies, offices and agencies can access a set of first governmental services in 2024***

***Indicator 1.2: Member States governments and Union institutions, bodies, offices and agencies can access full operational capability that meets the user needs and demand determined in the service portfolio in 2027***

***Indicator 1.3: Percentage of governmental service availability for each deployed governmental service***

*Indicator 1.4: Speed, bandwidth and latency performance for each deployed governmental service worldwide*

*Indicator 1.5: Percentage of geographical availability of all deployed governmental services within Member States territories*

*Indicator 1.6: Percentage of services deployed related to the service portfolio*

*Indicator 1.7: Percentage of available capacity for each deployed service*

*Indicator 1.8: Cost to completion*

*Indicator 1.9: Programme participants and number of third countries and international organisations participating in the Programme in accordance with Article 39*

*Indicator 1.10: Evolution of satellites capacities purchased by Union institutions from non-Union actors*

*Indicator 1.11: Number of launches not carried out from Union territory, or from the territory of members of EFTA which are members of the EEA*

*Indicator 1.12: Number of government-authorized users in the Union*

2. *General objective referred to in Article 3(1), point (b):*

*Indicator 2.1: Percentage of commercial service availability*

Indicator 2.2: *Speed, bandwidth, reliability and latency performance* of the commercial satellite broadband *service worldwide*

*Indicator 2.3: Percentage of communication dead zones in Member States territories*

*Indicator 2.4: Amount invested by private sector*

3. *Specific objective referred to in Article 3(2), point (a):*

*Indicator 3.1: GOVSATCOM Hubs can provide services stemming from the secure connectivity system*

*Indicator 3.2: Full integration of existing capacity from the Union pool via the integration of GOVSATCOM ground infrastructure*

4. *Specific objective referred to in Article 3(2), point (b):*

Indicator 4.1: Annual number of major outages of the telecommunication networks in the Member States *due to crisis situations* mitigated *by the governmental services offered* by the secure connectivity system

Indicator 4.2: *Government-authorised* users' satisfaction with the performance of the secure connectivity system *measured through annual survey*

*Indicator 4.3: Validation and accreditation of different technologies and communication protocols*



5. *Specific objective referred to in Article 3(2), point (c):*

*Indicator 5.1: Number of in orbit and functional satellites needed for the functioning of the EuroQCI*

6. *Specific objective referred to in Article 3(2), point (d):*

*Indicator 6.1: Number of satellites per orbital slot in 2025, 2026 and 2027*

7. *Specific objective referred to in Article 3(2), point (e):*

*Indicator 7.1: Governmental infrastructure and related governmental services which obtained security accreditation*

*Indicator 7.2: Annual number and severity of impact of cybersecurity incidents and number of electromagnetic disturbances related to the secure connectivity system (classified)*

8. *Specific objective referred to in Article 3(2), point (f):*

*Indicator 8.1: Number of satellite subsystems, including payloads, serving other components of the Union Space Programme* ■

9. Specific objective *referred to in Article 3(2), point (g)*:

Indicator **9.1**: Number of *start-ups, of SMEs and of mid-caps involved in the Programme and the related percentages of contract value*

*Indicator 9.2: Overall percentage of the value of the contracts subcontracted by the prime tenderers to SMEs, other than those affiliated with the tenderer's group, and share of their cross-border participation*

*Indicator 9.3: Number of Member States from which start-ups and SMEs are involved in the Programme*

10. Specific objective *referred to in Article 3(2), point (h)*:

Indicator **10.1**: Number of new ■ satellite communication ■ users in *geographical areas of strategic interest outside the Union*

*Indicator 10.2: Percentage of geographical availability of required services within areas of strategic interest outside the Union*

*Indicator 10.3: Number of countries where the satellite broadband is available to consumers*

11. Specific objective *referred to in Article 3(2), point (i)*:

*Indicator 11.1: Greenhouse gas footprint of development, production and deployment of the Programme*

*Indicator 11.2: Number of active satellites, decommissioned and recovered satellites*

*Indicator 11.3: Number of space debris generated by the constellation*

*Indicator 11.4: Number of close encounters*

*Indicator 11.5: Ephemeris data of the satellites shared with EU SST consortium*

*Indicator 11.6: Appropriate measure of the effect of light reflection on astronomical observations*

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Two statements have been made with regard to this act and can be found in [*OJ to provide: OJ C XXX, XX.XX.2023, p. XX*] and at the following link[s]: [*OJ: please insert the link[s] to the statements*].

*Joint political statement on the financing of the Union Secure Connectivity Programme for the period 2023-2027*

**The European Parliament and the Council** agree, without prejudice to the prerogatives of the budgetary authority in the framework of the annual budgetary procedure, that the financing of the Union Secure Connectivity Programme for the period 2023-2027 will indicatively be covered in the years 2023-2027 as follows:

- EUR 200 million from the unallocated margins from Heading 1 and Heading 5;
- EUR 1,450 million from contributions from Heading 1, Heading 5 and Heading 6.

## *Joint political statement on the re-use of decommitted funds in Horizon Europe*

In the Joint Declaration on the re-use of decommitted funds in relation to the research programme<sup>1</sup> the European Parliament, the Council and the Commission agreed to make available again to the benefit of the research programme commitment appropriations, corresponding to the amount up to EUR 0,5 billion (in 2018 prices) in the period 2021-2027 of decommitments, which results from total or partial non-implementation of projects belonging to the ‘Horizon Europe’ Framework Programme or its predecessor ‘Horizon 2020’<sup>2</sup>, as provided for in Article 15(3) of the Financial Regulation.

In the statement<sup>3</sup> on 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, the European Parliament, the Council and the Commission agreed on an indicative distribution of that amount that will be up to EUR 300 000 000 in constant 2018 prices for the cluster ‘Digital, Industry and Space’ in particular for quantum research.

Without prejudice to the powers of the budgetary authority in the framework of the annual budgetary procedure and to the Commission’s powers to implement the budget, **the European Parliament, the Council and the Commission** agree that, within the cluster on ‘Digital, Industry and Space’ of Horizon Europe, an indicative amount of EUR 200 million in constant 2018 prices will be allocated to secure connectivity research activities.

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<sup>1</sup> OJ C 444 I, 22.12.2020, p. 3.

<sup>2</sup> Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

<sup>3</sup> OJ C 185, 12.5.2021, p. 1.