



Council of the
European Union

Brussels, 14 December 2018
(OR. en)

15490/18

Interinstitutional File:
2018/0236(COD)

LIMITE

ESPACE 79	MI 987
RECH 535	ENER 440
COMPET 871	EMPL 590
IND 403	CSC 376
EU-GNSS 32	CSCGNSS 14
TRANS 639	CSDP/PSDC 733
AVIATION 169	CFSP/PESC 1191
MAR 196	CADREFIN 421
TELECOM 474	CODEC 2317

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	15152/18 ESPACE 75 RECH 520 COMPET 846 IND 388 EU-GNSS 29 TRANS 615 AVIATION 163 MAR 190 TELECOM 450 MI 935 ENER 422 EMPL 561 CSC 358 CSCGNSS 12 CSDP/PSDC 715 CFSP/PESC 1155 CADREFIN 398 CODEC 2211
No. Cion doc.:	9898/18 ESPACE 29 RECH 278 COMPET 428 IND 159 EU-GNSS 15 TRANS 251 AVIATION 84 MAR 79 TELECOM 172 MI 440 ENER 227 EMPL 310 CSC 188 CSCGNSS 1 CSDP/PSDC 311 CFSP/PESC 543 CADREFIN 85 CODEC 1007 IA 194 + ADD 1
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the space programme of the Union and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013, (EU) No 377/2014 and Decision 541/2014/EU - Partial mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 6 June 2018 the Commission presented the above-mentioned proposal for a Regulation to the European Parliament and the Council.

2. The proposed Regulation is part of the follow-up to the Commission's Communication on a space strategy for Europe (SSE). The proposed space programme aims to safeguard the continuity and evolution of Galileo and EGNOS (European Geostationary Navigation Overlay Service), the EU GNSS satellite positioning system, and of Copernicus, the world's most advanced Earth Observation system. The Space Situational Awareness (SSA) initiative will support the long-term sustainability and security of space activities by ensuring protection against space hazards. The new Governmental Satellite Communication (Govsatcom) initiative will provide Member States and EU security actors with guaranteed access to secure satellite communications.

The proposed Regulation also aims at ensuring an appropriate level of European autonomy in order for Europe to maintain and further strengthen its world-class capacity and capability. It also aims at fostering a comprehensive space policy to promote industrial competitiveness, innovation and the widest possible participation of actors from all EU Member States, including new entrants and SMEs, and to foster capacity building measures to ensure that benefits of the EU space investments are shared by all Member States.

3. The Commission proposes to :
- simplify and streamline the existing EU legal framework on space policy;
 - provide the EU with an adequate space budget to continue and improve upon existing space Flagship programmes, Galileo and EGNOS and Copernicus, and to monitor space hazards (SSA) and cater for access to secure satellite communications for governmental authorities (GOVATCOM);
 - establish the rules for the governance of the EU space programme;
 - standardise the security framework of the space programme.
4. The European Parliament adopted the ITRE Committee report (voted in Committee on 21 November 2018) during the Plenary on 13 December 2018. The Rapporteur Mr. Massimiliano SALINI (EPP, IT) was then granted a mandate to start negotiations with the Council on this basis.

II. WORK CONDUCTED WITHIN THE COUNCIL

5. The Working Party on Space has examined this proposal during 23 meetings under the Bulgarian and Austrian Presidencies.
6. On 30 November 2018, at the Competitiveness Council (Space part), Ministers held an exchange of views providing guidance for the continuation of the negotiation. In this context, the Council took note of a progress report presented by the Presidency and supported the Presidency's approach to finalise the text and obtain a mandate in December in order to start negotiating with the European Parliament immediately after.
7. In the course of discussions in the Working Party and based on the political exchange held at Council level, the proposal has evolved in the light of the concerns raised by Member States. A significant number of provisions have been amended and complemented where necessary. A number of Recitals have been modified and some new Recitals have been added. Those Recitals are an integral part of the mandate for negotiation with the European Parliament. The technical alignment of the other Recitals with the corresponding Articles of the text, which have been modified by the Council, will be carried out at a further stage.
8. On 30 November 2018, the Council Security Committee (CSC) delivered its opinion on the provisions related to security, which was requested by the Space Working Party in July 2018. The opinion was agreed by consensus in the CSC and was fully integrated into the draft Regulation.
9. Given the broad consensus reached at the last Working Party meetings on 10-11 December 2018, and on the basis of the general support provided by Ministers at the Council on 30 November 2018, the Presidency prepared a compromise package, set out in the Annex to this Note. The remaining open issues are explained under Section III.
10. Since the proposed Regulation is one of the package of proposals linked to the new MFF, all provisions with budgetary implications or of horizontal nature have been set aside pending further progress on the MFF. These provisions, which appear between square brackets in the text, concern the participation of third countries in EU programmes (Article 7, 8 and 25), Ownership and use of assets - contracts or other arrangements with third parties (Article 9(3) and (4)) and the financial envelope for the implementation of the Programme (Article 11(1)).

III. MAIN ISSUES

11. Access to space (Article 5):

Article 5 was discussed in depth. To cater for Member States' concerns the Presidency puts forward a new compromise proposal as set out in the Annex. It has been clarified that activities related to access to space will be conducted in full respect of the role played by the European Space Agency in this field. The possibility for new development to the space ground infrastructure, to cater for opportunities and challenges entailed by New Space, has been included.

12. Participation of Member States (SST) (Article 56(3)):

The wording of this provision has been adjusted in order to increase the number of Member States that could submit a joint proposal to participate in the provision of SST services. Room for further developments has also been foreseen and an explanatory recital has been added to that effect.

The discussions on this Article focussed on whether to keep it as proposed by the Presidency or to also include the possibility for Member States to present a joint proposal to provide SST services only for a specific orbital regime and that the Commission could select several proposals to cover all the orbits.

13. Name of the Agency (Article 1):

One delegation is of the opinion that the proposed name is too close to the name of the already existing European Space Agency. This delegation considers that the name should be changed to better reflect the tasks conferred to the Agency.

IV. CONCLUSION

The Permanent Representatives Committee is invited to endorse the compromise text set out in the Annex to this note and to agree to mandate the Presidency to start negotiations with the European Parliament on this basis, with a view to reaching a first reading agreement.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the space programme of the Union and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013, (EU) No 377/2014 and Decision 541/2014/EU¹

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

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

¹ New text compared to document 15152/18 appears in **bold/underlined**. Deletions are marked with ~~strikethrough~~.

Article 2

Definitions

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

- (0) Space surveillance and tracking (SST) system means a network of ground-based and space-based sensors capable of surveying and tracking space objects, together with processing capabilities aiming to provide data, information and services on space objects that orbit around the Earth.
- (1) ‘spacecraft’ means an orbiting object designed to perform a specific function or mission (e.g. communications, navigation or Earth observation) including satellites, launcher upper stages, re-entry vehicle). A spacecraft that can no longer fulfil its intended mission is considered non-functional. Spacecraft in reserve or standby modes awaiting possible reactivation are considered functional.
- (2) ‘space weather events’ means naturally occurring variations in the space environment at ~~on the Sun and in the space environment between the Sun and~~ around the Earth; Space weather effects ~~including~~ solar flares, solar energetic particles, variations in the solar wind, ~~and coronal mass ejections, that can lead to solar storms~~ and dynamics, solar radiation storms and ionospheric disturbances) potentially impacting Earth and space-based infrastructures;
- (3) ‘near earth objects’ (NEO) means natural objects in the solar system approaching the Earth;
- (4) ‘space object’ means any man-made object in outer space;
- (5) ‘space situational awareness’ (‘SSA’) means a holistic approach towards the main space hazards, encompassing collision between space objects, fragmentation and reentry of space objects into the atmosphere, space weather phenomena, and near earth objects;

- (6) 'blending operation' means actions supported by the EU budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the EU budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (7) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;
- (8) 'third country' means a country that is not a Member State of the Union;
- (9) 'SST information' means processed SST data which is readily meaningful to the recipient;
- (10) 'SST data' means physical parameters of space objects acquired by SST sensors or orbital parameters of space objects derived from SST sensors' observations in the framework of the space surveillance and tracking ('SST') component;
- (11) 'return link' means a service contributing to the global monitoring service of aircraft, monitoring defined by the International Civil Aviation Organisation;
- (12) 'Copernicus Sentinels' means the Copernicus dedicated satellites, spacecraft or spacecraft payloads for space-borne Earth observation;
- (13) 'Copernicus data' means data provided by the Sentinels, including their metadata;
- (14) 'Copernicus third-party data and information' means spatial data and information licensed or made available for use by Copernicus which originate from sources other than the Sentinels;

(14a) Copernicus Services’ mean value-added services, financed by the Programme, transforming Earth Observation data, in situ data and other ancillary data into processed, aggregated and interpreted information tailored to the needs of Copernicus users;

- (15) ‘Copernicus *in situ* data’ means observation data from groundborne, seaborne or airborne sensors, as well as reference and ancillary data licensed or provided for use in Copernicus;
- (16) ‘Copernicus information’ means information generated by the Copernicus Services following processing or modelling, including their metadata;
- (17) ‘fiduciary entity’ means a legal entity that is independent from the Commission or a third party and that receives data from the Commission or that third party for the purpose of safe storage and treatment of that data;
- (18) ‘space debris’ means any space object including spacecraft or fragments and elements thereof in Earth's orbit or re-entering Earth's atmosphere, that are non-functional or no longer serve any specific purpose, including parts of rockets or artificial satellites, or inactive artificial satellites;
- (19) ‘SST sensor’ means a device or a combination of devices, ground-based or space-based radars, lasers and telescopes, that is able to perform space surveillance or tracking and can measure physical parameters related to space objects, such as size, location or velocity;
- (19a) ‘GOVSATCOM participant’ means a Member States, Council, the Commission and EEAS, as well as Union agencies, third countries and international organisations, in so far as such agencies, third countries and international organisations have been duly authorised;

- (20) ‘GOVSATCOM user’ means a Union or Member State public authority, a body entrusted with the exercise of public authority, or a natural or legal person, duly authorised and entrusted with tasks relating to the supervision and management of security-critical missions, operations and infrastructures;
- (20a) ‘GOVSATCOM Hub’ means an operational centre with the main function to link in a secure manner the GOVSATCOM users to the providers of GOVSATCOM capacity and services, and thereby optimise the supply and demand at any given moment.
- (21) ‘GOVSATCOM use-case’ means an operational scenario in a particular environment in which GOVSATCOM services are required;
- (21a) EU classified information' (EUCI) means any information or material designated by a EU security classification, the unauthorised disclosure of which could cause varying degrees of prejudice to the interests of the European Union or of one or more of the Member States.
- (22) Sensitive non-classified information means information within the meaning of Article 9 of Commission Decision (EU, Euratom) 2015/443, which creates an obligation to protect sensitive non-classified information applying solely to the European Commission and to Union agencies and bodies obliged by law to apply the security rules of the Commission.²

² In addition, a recital is to be added to the Regulation along the following lines: "In the context of the Programme, there is some information which, although not classified, is to be handled according to acts already in force or to national laws, rules and regulations, including through distribution limitations."

(23) 'Copernicus users' means:

'Copernicus core users' which benefit from Copernicus data and Copernicus information and have the additional role of driving the evolution of Copernicus, are the Union institutions and bodies and European, national, or regional public bodies in the Union or Copernicus Participating States entrusted with a public service mission for the definition, implementation, enforcement or monitoring of civilian public policies, among others environmental, civil protection, safety or security policies;

'other Copernicus users' which benefit from Copernicus data and Copernicus information and include in particular research and education organisations, commercial and private bodies, charities, non-governmental organisations, and international organisations.

(24) 'Copernicus Participating States' means third countries which contribute financially and participate in Copernicus under the terms of an international agreement concluded with the Union.

Article 3

Components of the Programme

The Programme shall consist of the following components:

- (a) an autonomous civil global navigation satellite system (GNSS) under civil control comprising a constellation of satellites, centres and a global network of stations on the ground, offering positioning, navigation and timing services and integrating the needs and requirements of security ('Galileo');
- (b) a civil regional satellite navigation system under civil control which consists of centres and stations on the ground and several transponders installed on geosynchronous satellites and which augments and corrects the open signals emitted by Galileo and other GNSSs, *inter alia* for air-traffic management, air navigation services and other transport systems ('European Geostationary Navigation Overlay Service or 'EGNOS');

- (c) an operational, autonomous, user-driven, civil Earth observation system under civil control, building on the existing national and European capacities, offering geo-information data and services comprising satellites, ground infrastructure, data and information processing facilities, and distribution infrastructure, pursuing a full, free and open data policy and, where appropriate, integrating the needs and requirements of security ('Copernicus') ;
- (d) a space surveillance and tracking system aiming to improve, operate and provide data, information and services related to the surveillance and tracking of space objects that orbit around the Earth ('SST' sub-component) and complemented by observational parameters related to space weather events ('SWE' sub-component) and the risk monitoring of near earth objects ('NEOs' sub-component') approaching the Earth (Space Situational Awareness, 'SSA');
- (e) a satellite communications service under civil **and governmental** control enabling the provision of satellite communications capacities and services to Union and Member State authorities managing security critical missions and infrastructures ('GOVSATCOM').

The Programme shall include additional measures for ensuring efficient and autonomous access to space for the Programme and for fostering an innovative and competitive European space sector and strengthening the Union's space ecosystem.

Article 4

Objectives

1. The Programme shall have the following general objectives:
 - (a) provide, or contribute to the provision of, high-quality and up-to-date and, where appropriate, secure space-related data, information and services without interruption and wherever possible at global level, meeting existing and future needs and able to support the Union's political priorities and related evidence-based decision making, inter alia for climate change, transport, security and defence.

- (b) maximise the socio-economic benefits, including by promoting the widest possible use of the data, information and services provided by the Programme's components;
- (bb) foster the development of an innovative and competitive European manufacturing and services sector, including small and medium-sized enterprises and start-ups, while ensuring synergies and complementarity with the Union's research and technological development activities carried out under Horizon Europe Regulation;
- (c) enhance safety, the security of the Union and its Member States, its freedom of action and its autonomy, in particular in terms of technologies and evidence-based decision-making;
- (d) promote the role of the Union as a global actor in the space sector, encourage international cooperation, reinforce European space diplomacy³ and strengthen its role in tackling global challenges and supporting global initiatives, including with regards to climate change and sustainable development.
- (e) enhance safety, security and sustainability of all outer space activities pertaining to space objects and debris proliferation, as well as space environment, by implementing appropriate measures, including development and deployment of technologies for spacecraft disposal at the end of operational lifetime and for space debris disposal.

³ The following recital is to be added: " International cooperation is paramount and is a key element of the Space Strategy for Europe. The Commission will use the EU space programme to contribute to and benefit from international efforts through initiatives, to support European industry internationally (for example bi-lateral dialogues, industry workshops, support for SME internationalisation), and to facilitate access to international markets, also leveraging economic diplomacy initiatives. European space diplomacy initiatives should be in full coherence and complementarity with the existing EU policies, priorities and instruments, while, the Union has a key role to play together with the Union Member States to remain at the forefront of the international scene."

2. The Programme shall have the following specific objectives:
- (a) for Galileo and EGNOS: to provide state-of-the-art and secure positioning, navigation and timing services whilst ensuring service continuity and robustness;
 - (b) for Copernicus: to deliver accurate and reliable Earth Observation data, information and services properly integrating other data sources, supplied on a long-term sustainable basis, to support the formulation, implementation and monitoring of the Union and its Member States' policies, in particular in the fields of the environment, climate change, marine, maritime, agriculture and rural development, preservation of cultural heritage, civil protection, infrastructure monitoring, safety and security, as well as the digital economy;
 - (c) for Space Situational Awareness ('SSA'): to enhance SST capabilities to monitor, track and identify space objects and space debris, to provide space weather services and to map and network Member States NEO capacities;
 - (d) for GOVSATCOM: to ensure the long-term availability of reliable, secure and cost-effective satellite communications services for GOVSATCOM users;
 - (e) to contribute to an autonomous, secure and cost-efficient capability to access space;
 - (f) to support the space ecosystem and reinforce competitiveness, innovation, entrepreneurship, skills and capacity building in all Member States, with particular regard to small and medium-sized enterprises and start-ups or legal and natural persons from the Union active or wishing to become active in that sector.

Article 5

Access to space

1. The Programme shall support the ~~provision~~ **procurement** and aggregation of launching services for the needs of the Programme and, at their request, for Member States and international organisations.

2. Without prejudice to the European Space Agency's activities in the area of access to space, the Programme may also support:
- (a) **adaptations, including technology development, to space launch systems which are necessary for launching satellites for the implementation of the Programme components** ~~activities linked to autonomous, reliable and cost-efficient access to space;~~
 - (b) ~~necessary~~ adaptations to the space ground infrastructure, including new developments, **which are necessary for the implementation** ~~depending on the needs of the~~ Programme.

Article 6

Actions in support of an innovative and competitive Union space sector

1. The Programme shall promote capacity building across the Union and thus support:
- (a) innovation activities for making best use of space technologies, infrastructure or services;
 - (b) [...]
 - (c) entrepreneurship, from early stage to scaling-up, in accordance with Article 21 and other access to finance provisions as referred to in Article 18 and Chapter I of Title III;
 - (d) the emergence of a business friendly space ecosystem through cooperation between undertakings in the form of space hubs bringing together, at regional and national levels, actors from the space, digital and other sectors, as well as users, enhancing the synergies in the downstream sector of all components of the Programme and providing support to citizens and companies to foster entrepreneurship and skills;
 - (e) provision of education and training activities, including for professionals, ~~young~~ entrepreneurs, graduates and students, notably through synergies with national and regional initiatives and development of advanced skills;

- (f) access to processing and testing facilities for private and public sector professionals, students and entrepreneurs;
- (g) certification and standardisation activities;
- (h) reinforcement of the European supply chains across the Union through wide participation of enterprises, in particular small and medium-sized enterprises and start-ups, in all components of the programme, notably through the provisions of Article 14, and measures to underpin their competitiveness at global level.

2. When implementing activities referred to in paragraph 1, the need to develop capacity in Member States with an emerging space industry shall be **supported** ~~taken into account~~, in order to provide equal opportunity to all Member States to participate in the space programme.⁴

Article 7

Third countries and international organisations associated to the Programme

1. The participation to the Programme's components or sub-components, with the exception of the SST and GOVSATCOM, shall be open to the following third countries:
 - (a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;

⁴ The following recital is to be added: "Whereas a number of Member States have a tradition of active space related industries, the need to develop and mature space industries in Member States with emerging capabilities and the need to respond to the challenges to the traditional space industries posed by "New Space" should be recognised. Actions to develop space industry capacity across the Union and facilitate collaboration across space industry active in all Member States should be promoted."

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

3. The participation to the Programme's components or sub-components shall only be open to the third countries and international organisations referred to in paragraphs 1 and 2 provided that the essential security interests of the Union and its Member States are preserved, including as regards the handling of classified information.↓

↓Article 8

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

1. Third countries or international organisations may become GOVSATCOM participant referred to in Article only where, in accordance with the procedure provided for in Article 218 of the Treaty on the Functioning of the European Union, they enter into an agreement laying down the terms and conditions for access to Govsatcom capacities and services, and the framework for exchanging and protecting classified information.
 - 1a. International organisations not having their headquarter in the Union and third countries may have access to SST services referred to in Article 54 only where, in accordance with the procedure provided for in Article 218 of the Treaty on the Functioning of the European Union, they enter into an agreement laying down the terms and conditions for access to such services, and the framework for exchanging and protecting classified information.
 - 1b. By way of derogation from paragraph 1a of this Article, no agreement shall be required where an SST service referred to in Article 54(1) is publically available.
2. The access of third countries or international organisations to the Public Regulated Service provided by Galileo shall be governed by Article 3(5) of Decision No 1104/2011/EU of the European Parliament and of the Council⁵.↓

⁵ OJ L 287, 4.11.2011, p. 1–8.

Article 9

Ownership and use of assets

1. The Union shall be the owner of all tangible and intangible assets created or developed under the Programme's components. To that aim, the Commission shall take the necessary steps to ensure that relevant contracts, agreements and other arrangements relating to those activities which may result in the creation or development of such assets contain provisions ensuring such an ownership regime regarding those assets.
2. Paragraph 1 shall not apply to the tangible and intangible assets created or developed under the Programme's components, where the activities which may result in the creation or development of such assets:
 - (a) are carried out pursuant to grants or prizes fully financed by the Union;
 - (b) are not fully financed by the Union, or
 - (c) relate to the development, manufacture or use of PRS receivers incorporating EUCI, or components of such receivers.
- [3. The Commission shall take the necessary steps to ensure that the contracts, agreements or other arrangements relating to the activities referred to in the second paragraph contain provisions setting out the appropriate ownership regime for those assets and, as regards point (c) that the Union can freely use the PRS receivers in accordance with Decision 1104/2011/EU.]
- [4. The Commission shall seek to conclude contracts or other arrangements with third parties with regard to:
 - (a) pre-existing ownership rights in respect of tangible and intangible assets created or developed under the Programme's components;
 - (b) the acquisition of the ownership or license rights in respect of other tangible or intangible assets necessary for the implementation of the Programme.]

5. The Commission shall ensure, by means of an appropriate framework, the optimal use of the tangible and intangible assets referred to in paragraphs 1 and 2 owned by the Union.
6. In particular, where those assets consist of intellectual property rights, the Commission shall manage those rights as effectively as possible, taking account of the need to protect and give value to them, of the legitimate interests of all stakeholders concerned and of the need for harmonious development of markets and new technologies and for the continuity of the services provided by the Programme's components. To that end, it shall ensure in particular that the relevant contracts, agreements and other arrangements include the possibility of transferring those rights to third parties or granting third-party licences for those rights, including to the creator of that intellectual property right and that the Agency can freely enjoy those rights where necessary for carrying out its tasks under this Regulation. The financial framework partnership agreement referred to in Article 31(2) or the contribution agreements referred to in Article 32(1) shall contain relevant provisions to allow the use of those rights by the European Space Agency and the other entrusted entities where necessary to perform their tasks under this Regulation and the conditions for that use.

Article 10

Warranty

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

TITLE II

BUDGETARY CONTRIBUTION AND MECHANISMS

Article 11

Budget

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027, including for the associated risks and necessary launch services, shall be EUR [16] billion in current prices.

The distribution of the amount referred to in the first subparagraph shall be broken down in the following categories of expenditure⁶:

- (a) for Galileo and EGNOS: EUR [9,7] ⁷ billion;
 - (b) for Copernicus: EUR [5,8] billion;
 - (c) for SSA/GOVSATCOM: [0.5 EUR] ⁸ billion.
- 1a. The Commission may reallocate funds between the categories of expenditure referred to in paragraph 1, up to a ceiling of ~~{10 7.5 %}~~ of the category of expenditure that receives the funds or the category that provides the funds. The Commission, by means of implementing acts, acting in accordance with the examination procedure referred in Article 107(3) may re-allocate funds between the categories of expenditure referred to in paragraph 1 when this allocation exceeds a cumulative amount greater than ~~{10 7.5 %}~~ of the amount allocated to the category of expenditure that receives the funds or the category that provides the funds.

⁶ The amount allocated to the Agency (EUR 235 million) is not included in the envelope for the space programme. In addition to the Space Programme, the MFF package includes a separate envelope for the EU contribution to the Agency (as it is the case for the other EU decentralised Agencies).

⁷ This amount should be broken down as follows: for Galileo 8.25 EUR billion and for EGNOS 1.45 EUR billion.

⁸ This amount should be broken down as follows: for SSA 0.25 billion and for GOVSATCOM 0.25 billion.

2. Additional measures as foreseen by Article 3 shall be financed under the Programme's components.
3. The Union budgetary appropriations assigned to the Programme shall cover all the activities required to fulfil the objectives referred to in Article 4, and activities referred to in Article 5 and in Article 6. Such expenditure may cover
 - (a) studies and meetings of experts, in particular compliance with its cost and time constraints;
 - (b) information and communication activities, including corporate communication on the policy priorities of the Union where they are directly linked to the objectives of this Regulation, with a particular view to creating synergies with other Union policies;
 - (c) the information technology networks whose function it is to process or exchange information, and the administrative management measures, including in the field of security, implemented by the Commission;
 - (d) technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.
4. Actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.
5. The budget commitments relating to the Programme and which cover activities extending over more than one financial year may be broken down over several years into annual instalments.

6. Resources allocated to Member States under shared management may, at their request, be transferred to the Programme. The Commission shall implement those resources directly in accordance with point (a) of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that Article. [Where possible those resources shall be used for the benefit of the Member State concerned.]⁹

Article 12

Assigned revenue

1. The revenue generated by the components of the Programme shall be paid into the Union budget and used to finance the component which generated the revenue.
2. The Member States may endow a component of the Programme with an additional financial contribution on condition that such additional elements do not create any financial or technical burden or any delay for the component concerned. The Commission shall decide, in accordance with the examination procedure referred to in Article 107 (3), whether those conditions have been met.
3. The additional funding referred to in this Article shall be treated as external assigned revenue in accordance with [Article 21(2)] of the Financial Regulation.

Article 13

Implementation and forms of EU funding

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

⁹ Horizontal issue put in brackets, pending the outcome of negotiations in CPR/Research.

3. With the exception of the procurement of launch services, where the Copernicus budget is implemented by indirect management the procurement rules of the entities entrusted with budget implementation tasks shall apply to the extent allowable under Article XX of the Financial Regulation. Specific adjustments necessary to those rules shall be defined in the relevant contribution agreements.

TITLE III

FINANCIAL PROVISIONS

CHAPTER I

Procurement

Article 14

Principles of procurement

1. The contracting authority shall act in accordance with the following principles in procurement procedures for the purpose of the Programme:
 - (a) to promote in all Member States, throughout the supply chain, the widest and most open participation possible of all economic operators, in particular start-ups, new entrants and small and medium sized enterprises, including the requirement of sub-contracting by the tenderers;
 - (b) to avoid abuse of dominant position and, where possible, reliance on a single provider, in particular for critical equipment and services, taking into account the objectives of technological independence and continuity of services;
 - (c) by derogation from Article 167 of the Financial Regulation, to use, wherever appropriate, multiple supply sources in order to ensure better overall control of all the components of the Programme, their cost and schedule;
 - (cc) to follow the principles of open access and fair competition throughout the industrial supply chain, tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules and procedures, selection and award criteria and any other relevant information allowing a level-playing field for all potential bidders, including SMEs and start-ups;

- (d) to foster the autonomy of the Union;
 - (e) to comply with the security requirements of the components of the Programme and to contribute to the protection of the essential security interests of the Union and its Member States;
 - ee) to promote service continuity and reliability;
 - (f) to satisfy appropriate social and environmental criteria.
2. A procurement Board, within the Commission, shall scrutinise the procurement process concerning all components of the programme and monitor the contractual implementation of the EU budget delegated to entrusted entities. Representative of the entrusted entities shall be invited as appropriate.

Article 15

Conditional stage-payments contracts

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

4. Performance of each conditional stage shall be subject to a decision by the contracting authority, notified to the contractor in accordance with the contract.

Article 16

Cost-reimbursement contracts

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

The price to be paid shall consist in the reimbursement of all direct costs actually incurred by the contractor in performing the contract, such as expenditure on labour, materials, consumables, and use of the equipment and infrastructures necessary to perform the contract, indirect costs, a fixed profit and an appropriate incentive fee based on achieving objectives in respect of performance and delivery schedules.

2. Cost reimbursement contracts shall stipulate a maximum ceiling price.
3. The contracting authority may opt for a full or partial cost-reimbursement contract in cases where it is difficult or unsuitable to provide an accurate fixed price due to the uncertainties inherent in performance of the contract because:
 - (a) the contract has very complex features or features which require the use of a new technology and, therefore, includes a significant number of technical risks; or
 - (b) the activities subject to the contract must, for operational reasons, start immediately even though it is not yet possible to determine a firm fixed price in full due to significant risks or because the performance of the contract depends in part on the performance of other contracts.
4. The ceiling price for a full or partial cost-reimbursement contract shall be the maximum price payable. The contract price may be amended in accordance with [Article 172] of the Financial Regulation.

Subcontracting

1. To encourage new entrants, in particular cross border participation of small and medium enterprises and start-ups, and to offer the widest possible geographic 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. The contracting authority shall express the requisite share of the contract to be subcontracted in the form of a range from a minimum to a maximum percentage.
3. Any derogation from a request in accordance with paragraph 1 shall be justified by the tenderer and assessed by the contracting authority.
4. For contracts above ten million Euro, the contracting authority shall aim at ensuring that at least 30% of the value of the contract, ~~if possible and appropriate~~, is subcontracted by competitive tendering at various levels to companies outside the group of the prime contractor, notably in order to enable the cross-border participation of SMEs. The Commission shall inform the Committee on the fulfilment of this objective for contracts signed after the entry into force of this Regulation.

CHAPTER II

Grants, prizes and blending operations

Article 18

Grants and prizes

1. The Union may cover up to 100% of the eligible costs, without prejudice to the co-financing principle.
2. By way of derogation from [Article 181(6)] of the Financial Regulation, when applying flat rates, the authorising officer responsible may authorise or impose funding of the beneficiary's indirect costs up to a maximum of 25 % of total eligible direct costs for the action.
3. [...]
4. By way of derogation from [Article 204] of the Financial Regulation, the maximum amount of financial support that can be paid to a third party shall not exceed EUR 200 000.

Article 19

Joint calls for grants

The Commission or an entrusted entity in the context of the Programme may issue a joint call for proposals with entities, bodies or persons referred to in Article 62(1)(c) of the Financial Regulation.

In the case of a joint call, the rules referred to in Title VIII of the Financial Regulation shall apply. The evaluation procedures shall involve a balanced group of experts appointed by each party. The evaluation committees shall comply with Article 150 of the Financial Regulation.

The grant agreement shall specify the arrangement applicable to intellectual property rights.

Grants for pre-commercial procurement and procurement of innovative solutions

1. Actions may involve or have as their primary aim pre-commercial procurement or public procurement of innovative solutions that shall be carried out by beneficiaries which are contracting authorities or contracting entities as defined in Directives 2014/24/EU, 2014/25/EU and 2009/81/EC of the European Parliament and of the Council.
2. The procurement procedures:
 - (a) shall comply with the principles of transparency, non- discrimination, equal treatment, sound financial management, proportionality and competition rules;
 - (b) for pre-commercial procurement, may provide for specific conditions such as the place of performance of the procured activities being limited to the territory of the Member States and of associated countries;
 - (c) may authorise the award of multiple contracts within the same procedure (multiple sourcing); and
 - (d) shall provide for the award of the contracts to the tender(s) offering best value for money while ensuring absence of conflict of interest.
3. The contractor generating results in pre-commercial procurement shall own at least the attached intellectual property rights. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the participating contractors to grant, non-exclusive licences to third parties to exploit the results for the contracting authority under fair and reasonable conditions without any right to sub-license. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, the contracting authorities may require it to transfer any ownership of the results to the contracting authorities.

Article 21

Blending operations

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

CHAPTER III

Other financial provisions

Article 22¹⁰

Cumulative, complementary and combined funding

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

¹⁰ Article to be updated pending the outcome of horizontal discussions.

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

Article 23

[...]

Article 24

Joint procurement

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

[Article 25

Protection of essential security interests¹¹

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

Article 26

Protection of the financial interests of the Union

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

¹¹ **The state of play of the negotiations on Article 25 will be reflected in doc. 15620/18.**

TITLE IV

GOVERNANCE OF THE PROGRAMME

Article 27

Principles of governance

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

- (a) clear distribution of tasks and responsibilities between the entities involved in the implementation of each component and measure of the Programme, in particular between the Member States, the Commission, the Agency and the European Space Agency **and the European Organisation for the Exploitation of Meteorological Satellites**, building on their respective competence and avoiding any overlap in tasks and responsibilities;
- (aa) pertinence of the governance structure to the specific needs of each component and measure of the Programme as appropriate;
- (b) strong control of the Programme, including strict adherence to cost, schedule and performance by all the entities, within their respective role and tasks in accordance with this Regulation;
- (c) transparent and cost-efficient management;
- (cc) service continuity and necessary infrastructure continuity, including protection from relevant threats;
- (d) systematic and structured consideration of the needs of users of the data, information and services provided by the Programme's components, as well as of related scientific and technological evolutions;
- (e) constant efforts to control and reduce risks.

Role of the Member States

1. The Member States may participate in the Programme subject to mutually agreed conditions. Member States who participate in the Programme shall contribute with their technical competence, know-how and assistance, in particular in the field of safety and security, and/or, where appropriate and possible, by making available to the Union the data, information, services and infrastructure in their possession or located on their territory, including by ensuring an efficient and obstacle free access and use of in-situ data and cooperating with the Commission to improve the availability of in-situ data required by the Programme, taking into account applicable licences and obligations.
2. The Commission may entrust, by means of contribution agreements, specific tasks to Member States or to groups of Member States. The Commission, by means of implementing act, acting in accordance with the advisory procedure referred to in Article 107(2), shall adopt the contribution decision regarding the contribution agreement.
- 2a. In certain duly justified and exceptional circumstances linked to ~~specific needs~~ **objectives** of the programme, the Agency may entrust specific tasks to Member States or to groups of Member States. ¹²
- 2aa. The Member States shall take all the necessary measures to ensure the smooth functioning of the Programme, including by helping to protect, at the adequate level, the frequencies required for this programme.
- 2b. The Member States and the Commission may cooperate to widen the uptake of data, information and services provided by the programme.

¹² The following recital will be added: In exceptional circumstances, the Agency might entrust specific tasks to Member States or group of Member States. That entrustment should be limited to activities the Agency is not in the capacity to execute itself and should not prejudice the governance of the Programme and the allocation of tasks as defined in this Regulation.

- 2c. Whenever possible, the contribution of Member States to the User Forum referred to in Article 107 shall be based on a systematic consultation of user communities at national level.
3. The Member States and Commission shall cooperate in order to develop the in-situ component and ground calibration services necessary for the uptake of space systems and to facilitate the use of in-situ and reference data sets to their full potential, building on existing capacities.
4. In the field of security, the Member States shall perform the tasks referred to in Article 34(4).

Article 29¹³

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. It shall, in accordance with this Regulation, determine the priorities and long-term evolution of the Programme, in line with the user requirements, and shall supervise its implementation, without prejudice to other policies of the Union.
2. The Commission shall manage any component or sub-component of the Programme not entrusted to another entity.
3. The Commission shall ensure a clear division of tasks and responsibilities between the various entities involved in the Programme and coordinate the activities of those entities.

¹³ The following Recital is to be added: "To maximise the socio-economic return from the Programme, it is essential that systems are upgraded to meet evolving users' needs and that new developments occur in the space-enabled applications sector. The Union should support activities relating to research and technology development, or the early phases of evolution relating to the infrastructures established under the Programme, as well as the research and development activities relating to applications and services based on the systems established under the programme. The appropriate instrument at Union level to finance those research and innovation activities is Horizon Europe established by Regulation (EU) No XXX/XXXX. Ensuring synergies and coherence between the two programmes will therefore be crucial."

4. When necessary for the smooth functioning of the Programme and the smooth provision of the services provided by the Programme's components, the Commission shall, by means of implementing acts, determine the technical and operational requirements needed for the implementation of and evolution of those components and of the services they provide after having consulted users, including through the User Forum referred to in Article 107, and other stakeholders. When determining those technical and operational requirements, the Commission shall avoid reducing the general security level and to meet a backward compatibility imperative.

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

5. The Commission shall promote and ensure the uptake and use of the data and services provided by the Programme's components in the public and private sectors, including by supporting appropriate development of those services and user-friendly interfaces, and by fostering a stable long-term environment. It shall develop appropriate synergies between the applications of the various components of the Programme. It shall ensure complementarity, consistency, synergies and links between the Programme and other Union actions and programmes.

6. Where appropriate, the Commission shall ensure the coherence of activities performed in the context of the Programme with activities carried out in the field of space at Union, national or international level. It may encourage cooperation between the Member States and, when pertinent to the Programme, facilitate convergence of their technological capacities and developments in the space domain^{14 15}.
7. The Commission shall inform the Committee referred to in article 107 of the interim and final results of the evaluation of any procurement tenders and of any contracts with **public and** private sector entities, including the information relating to subcontracting.

Article 30

Role of the Agency

1. The Agency shall have the following own tasks:
- (a) ensure, through its Security Accreditation Board, the security accreditation of all components of the Programme in accordance with Chapter II of Title V;
 - (b) perform the tasks referred to in Article 34(2) and (3);
 - (c) undertake communication and promotion activities, and in particular with regard to activities relating to the market uptake of the services offered by Galileo and EGNOS;
 - (d) provide expertise to the Commission.

¹⁴ Recital (27) could be modified as follows: "As promoter of the Union's general interest, it falls to the Commission to implement the Programme, assume overall responsibility and promote their use. In order to optimise the resources and competences of the various stakeholders, the Commission should be able to delegate certain tasks. Moreover the Commission is the best placed to determine the main technical and operational specifications necessary to implement systems and services evolution. Finally, noting that in the area of space, in accordance with Article 4(3) TFEU, the exercise of competence by the Union does not result in Member States being prevented from exercising theirs, the Commission should ensure the coherence of activities performed in the context of the programme."

¹⁵ Coordination with European entities, e.g. ESA, EUMETSAT, ECMWF will be clarified in recitals.

2. The Commission shall entrust the following tasks to the Agency:
- (a) managing the exploitation of EGNOS and Galileo, as referred to in Article 43¹⁶;
 - (b) overarching coordination of user-related aspects of GOVSATCOM in close collaboration with Member States, other entities, relevant Union agencies and EEAS for crisis management missions and operations;
 - (c) implementing activities relating to the development of downstream applications based on the components of the Programme, where funding have been made available for such activities in the context of the Horizon Europe Programme established under Regulation xx or where necessary to fulfill the objectives refer to in Article 4(1)(b).
3. The Commission may entrust to the Agency:
- a) communication, promotion, and marketing of data and information activities, as well as activities related to user uptakes with regard to the Programme's components other than Galileo and EGNOS, without prejudice to Copernicus activities entrusted to other entities.
 - (b) other actions referred to in Article 6.

¹⁶ The following recital is to be added: "Galileo and EGNOS are complex systems that require intensive coordination. Considering that Galileo and EGNOS are Union components, that coordination should be performed by a Union institution or a Union body. Building on the expertise developed in the past years, the Agency is the most appropriate body to coordinate all the operational tasks relating to the exploitation of those systems. The Agency should therefore be entrusted with the management of the exploitation of EGNOS and Galileo. Nevertheless, this does not mean that the Agency should perform alone all the tasks relating to the exploitation of the systems. It has to rely on the expertise of other entities, including the European Space Agency. The allocation of tasks to other entities builds on the competence of such entities and should avoid duplication of work."

4. The tasks referred to in paragraphs 2 and 3 shall be entrusted by the Commission, under the Financial Framework Partnership referred to in Article 31(2), by means of a contribution agreement in accordance with [Article 2(18)] and [Title VI] of the Financial Regulation. The Commission, by means of implementing act, acting in accordance with the advisory procedure, shall adopt the contribution decision regarding the contribution agreement. The European Parliament, and the Council shall be informed in advance of the contribution agreements to be concluded by the Union, as represented by the Commission, and the Agency.
5. The Agency may entrust, by means of contribution agreements, specific activities to other entities.

Article 31

Role of the European Space Agency

1. The European Space Agency shall be entrusted with the following tasks:
 - (a) as regards Copernicus: coordination of the space component and the overall implementation for the Copernicus space component and its evolution, design, development, procurement, deployment and construction of the Copernicus space infrastructure, including the operations of that infrastructure, except when this is done by other entities, and, where appropriate, access to third party data.
 - (b) as regards Galileo and EGNOS: systems evolution, design and development of parts of the ground segment and of satellites, including testing and validation;
 - (c) as regards all the components of the Programme with research and development activities in its fields of expertise.

2. The Commission, taking into account the 2004 Framework agreement, shall conclude with the Agency and the European Space Agency a financial framework partnership agreement as provided for in [Article 130] of the Financial Regulation. That financial framework partnership agreement shall:
- (a) clearly define the responsibilities and obligations of the Commission, the Agency and the European Space Agency with regard to each component of the Programme and necessary coordination and control mechanisms;
 - (b) require that the European Space Agency applies the Union security rules defined in the security agreements entered into between the Union, and its Institutions and Agencies, with ESA, ~~in particular with regard to the processing of classified information;~~
 - (c) stipulate the conditions of the management of funds entrusted to the European Space Agency, particularly with regard to public procurement, management procedures, the expected results measured by performance indicators, applicable measures in the event of deficient or fraudulent implementation of the contracts in terms of costs, schedule and results, as well as the communication strategy and the rules regarding ownership of all tangible and intangible assets; these conditions shall be in conformity with Titles III and V of this regulation and the Financial Regulation;
 - (d) ~~while preserving the technical independence of the Tender Evaluation Board,~~ require the participation of experts appointed by the Commission and, when relevant, the Agency in the Tender Evaluation Board meetings of the European Space Agency with regard to the Programme, **while preserving the technical independence of the Tender Evaluation Board,**
 - (e) establish the monitoring and control measures, which shall include, in particular, a cost forecast system, the systematic provision of information to the Commission or, where appropriate, to the Agency, on costs and schedule, and in the event of a discrepancy between the planned budgets, performance and schedule, corrective action ensuring performance of the tasks within the allocated budgets;

- (f) establish the principles for the remuneration of the European Space Agency for each component of the programme, which shall be commensurate with the conditions under which the actions are implemented, taking due account of situations of crisis and fragility, and, where appropriate, be performance based; the remuneration shall not cover general overheads which are not associated with the activities entrusted to the European Space Agency by the Union.
- 3. The the financial framework partnership agreement referred to in paragraph 2 shall ensure that the European Space Agency takes appropriate measures to ensure the protection of the interests of the Union and to comply with the decisions taken by the Commission for each component in application of this regulation.
- 3x. The Commission shall decide on the financial framework partnership agreement by means of implementing act, acting in accordance with the examination procedure.
- 3a. Under the financial framework partnership agreement referred to in paragraph 2, the tasks referred to in paragraph 1 shall be entrusted to the European Space Agency by means of contribution agreements. The Commission, by means of implementing act, acting in accordance with the advisory procedure, shall adopt the contribution decision regarding the contribution The European Parliament and the Council shall be informed in advance of the contribution agreements to be concluded.
- 4. Without prejudice to the financial framework partnership agreement referred to in paragraph 2, the Commission or the Agency may request the European Space Agency to provide technical expertise and the information necessary to perform the tasks which are assigned to them by this Regulation under conditions to be mutually agreed.

Role of other entities

1. The Commission may entrust, in full or in part, by means of contribution agreements the implementation of the Programme's components to entities other than those referred to in Article 30 and 31, including :
 - (a) the operation of the Copernicus space infrastructure or parts thereof and, where appropriate, access to contributing mission data, which may be entrusted to EUMETSAT;
 - (b) the implementation of the Copernicus Services or parts thereof to relevant agencies, bodies or organisations, such as the European Environment Agency (EEA), the European Border and Coast Guard Agency (FRONTEX), the European Maritime Safety Agency (EMSA), and European Union Satellite Centre (SATCEN) and the European Centre for Medium Range Weather Forecasts (ECMWF). The tasks entrusted to those agencies, bodies or organisations shall be performed in sites located in the Union.
2. The criteria for the selection of such entrusted entities shall, in particular, reflect their ability to ensure the continuity and, where appropriate, the security of the operations with no disruption of Programme activities.
- 2a. Whenever possible, the conditions of the contribution agreements referred to in the first paragraph shall be coherent with the conditions of the FFPA referred to in Article 31(2).
3. The Programme Committee shall be consulted on the contribution decision regarding the contribution agreement referred to in paragraph 1 of this Article in accordance with the advisory procedure referred to in Article 107(2). The Programme Committee shall be informed in advance of the contribution agreements to be concluded by the Union, represented by the Commission, and the Entities referred to in paragraph 1.

TITLE V

SECURITY OF THE PROGRAMME

CHAPTER I

Security of the Programme

Article 33

Principles of security

1. The security of the Programme should be based on the following principles:
 - (a) to take account of the experience of the Member States in the field of security and draw inspiration from their best practices;
 - (b) to use the the security rules of the Council and of the Commission, which provide, among others, for a separation between operational functions and those associated with accreditation.
2. This Regulation shall be without prejudice to the sole responsibility of the Member States for 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.

Article 34

Governance of security

1. The Commission, in its field of competence, shall ensure a high degree of security with regard to, in particular:
 - (a) the protection of infrastructure, both ground and space, and of the provision of services, particularly against physical or cyber-attacks, including interference with data streams;
 - (b) the control and management of technology transfers;

- (c) the development and preservation within the Union of the competence and know-how acquired;
- (d) the protection of sensitive non-classified and classified information.

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

After the entry into force of this Regulation, the Commission shall communicate an indicative list of implementing acts to be submitted to and discussed by the Programme Committee in security configuration. This list shall be accompanied by an indicative timetable for submission. Where the timetable is not respected, Member States may request the Commission to act within a reasonable timeframe.

2. The entity responsible for the management of a component of the Programme shall be responsible for managing the security of that component and shall, to that end, carry out risk and threat analysis and all the necessary activities to ensure and monitor the security of that component, in particular setting of technical specifications and operational procedures, and monitor their compliance with the general security requirements referred to in paragraph 1.

2a. Based on the risk and threat analysis, the Commission shall, where appropriate, establish a security monitoring body to follow the instructions developed under the scope of Decision 201x/xxx/CFSP.¹⁷ The security monitoring body shall operate in accordance with the security requirements referred to in paragraph 1. For Galileo, that security monitoring body shall be the Galileo Security Monitoring Centre.

¹⁷ **This Council Decision will result from the High Representative proposal extending the scope of Council Decision 2014/496/CFSP of 22 July 2014 currently under negotiation.**

3. The Agency shall:
- (a) ensure the security accreditation of all the components of the Programme in accordance with Chapter II of this Title and without prejudice to the competences of the Member States;
 - (b) ensure the operation of the Galileo Security Monitoring Centre in accordance with the requirements referred to in paragraph 2 and the instructions developed under the scope of Decision 2014/496/CFSP;
 - (c) perform the tasks assigned to it under Decision No 1104/2011/EU;
 - (d) provide the Commission with its technical expertise and supply any information necessary for the performance of its tasks under this Regulation.
4. The Member States shall:
- (a) take measures which are at least equivalent to those necessary for the protection of European critical infrastructures within the meaning of Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection¹⁸ and to those necessary for the protection of their own national critical infrastructures in order to ensure the protection of the ground infrastructure on the ground which form an integral part of the Programme and which are located on their territory;
 - (b) perform the security accreditation tasks referred to in Article 41.
5. The entities involved in the Programme shall take all the measures necessary to ensure the security of the Programme.

¹⁸ OJ L 345, 23.12.2008, p. 75–82.

CHAPTER II

Security accreditation

Article 35

Security Accreditation Authority

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

Article 36

General principles of security accreditation

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

- (a) security accreditation activities and decisions shall be undertaken in a context of collective responsibility for the security of the Union and of the Member States;
- (b) efforts shall be made for decisions within the Security Accreditation Board to be reached by consensus;
- (c) security accreditation activities shall be carried out using a risk assessment and management approach, considering risks to the security of the component as well as the impact on cost or schedule of any measure to mitigate the risks, taking into account the objective not to lower the general level of security of this component;
- (d) security accreditation decisions of the Security Accreditation Board shall be prepared and taken by professionals who are duly qualified in the field of accrediting complex systems, have an appropriate level of security clearance and act objectively;
- (e) efforts shall be made to consult all relevant parties with an interest in security issues for this component;

- (f) security accreditation activities shall be carried out by all relevant stakeholders of the component according to a security accreditation strategy, without prejudice to the role of the Commission;
- (g) security accreditation decisions of the Security Accreditation Board shall, following the process defined in the relevant security accreditation strategy defined by that Board, be based on local security accreditation decisions taken by the respective national security accreditation authorities of the Member States;
- (h) a permanent, transparent and fully understandable monitoring process shall ensure that the security risks for the component are known, that security measures are defined to reduce such risks to an acceptable level in view of the security needs of the Union and of its Member States and for the smooth running of the component and that those measures are applied in accordance with the concept of defence in depth. The effectiveness of such measures shall be continuously evaluated. The process relating to security risk assessment and management shall be conducted as an iterative process jointly by the stakeholders of the component;
- (i) security accreditation decisions shall be taken by the Security Accreditation Board in a strictly independent manner, including with regard to the Commission and the other bodies responsible for the implementation of the component and for the provision of related services, and with regard to the Executive Director and the Administrative Board of the Agency;
- (j) security accreditation activities shall be carried out with due regard for the need for adequate coordination between the Commission and the authorities responsible for implementing security provisions;
- (k) the security accreditation of EGNOS performed by the Security Accreditation Board shall be without prejudice to the accreditation activities performed, for aviation, by the European Aviation Safety Agency.

Tasks of the Security Accreditation Board

1. The Security Accreditation Board shall perform its tasks without prejudice to the responsibilities of the Commission or to those entrusted to the Agency's other bodies, in particular for matters relating to security, and without prejudice to the competences of the Member States as regards security accreditation.
2. The Security Accreditation Board shall have the following tasks:
 - (a) defining and approving a security accreditation strategy setting out:
 - i) the scope of the activities necessary to perform and maintain the accreditation of the components of the Programme or of parts of these components and any interconnections between them and other systems or components;
 - ii) a security accreditation process for the components of the Programme or parts of these components, with a degree of detail commensurate with the required level of assurance and clearly stating the accreditation conditions;
 - iii) the role of relevant stakeholders involved in the accreditation process;
 - iv) an accreditation schedule compliant with the phases of the components of the Programme, in particular as regards the deployment of infrastructure, service provision and evolution;
 - v) the principles of security accreditation for networks connected to systems set up under the components of the Programme or for parts of these components and for equipment connected to systems established by these components, which shall be performed by the national entities of the Member States competent in security matters;

- (b) taking security accreditation decisions, in particular on the approval of satellite launches, the authorisation to operate the systems set up under the components of the Programme or the elements of these components in their different configurations and for the various services they provide, up to and including the signal in space, and the authorisation to operate the ground stations. As regards the networks and the equipment connected to the PRS service referred to in Article 44, or to any other secure service stemming from the components of the Programme, the Security Accreditation Board shall take decisions only on the authorisation of bodies to develop or manufacture sensitive PRS technologies, PRS receivers or PRS security modules, or any other technology or equipment which has to be checked under the general security requirements referred to in Article 34(1), taking into account the advice provided by national entities competent in security matters and the overall security risks;
- (c) examining and, except as regards documents which the Commission is to adopt under Article 34(1) of this Regulation and Article 8 of Decision No 1104/2011/EU, approving all documentation relating to security accreditation;
- (d) advising, within its field of competence, the Commission on the production of draft texts for acts referred to in Article 34(1) of this Regulation and Article 8 of Decision No 1104/2011/EU, including for the establishment of security operating procedures (SecOps), and providing a statement with its concluding position;
- (e) examining and approving the security risk assessment drawn up in accordance with the monitoring process referred to in Article 36(h), taking into account compliance with the documents referred to in point (c) of this paragraph and those drawn up in accordance with Article 34(1) of this Regulation, and with Article 8 of Decision No 1104/2011/EU; and cooperating with the Commission to define risk mitigation measures;
- (f) checking the implementation of security measures in relation to the security accreditation of the components of the Programme by undertaking or sponsoring security assessments, inspections, audits or reviews, in accordance with Article 41(b) of this Regulation;

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

Article 38

Composition of the Security Accreditation Board

1. The Security Accreditation Board shall be composed of a representative of each Member State, a representative of the Commission and a representative of the High Representative of the Union for Foreign Affairs and Security Policy ('High Representative'). The term of office of the members of the Security Accreditation Board shall be four years and shall be renewable.
2. Participation in SAB meetings shall be based on the need-to-know-principle. Where appropriate, representatives of the European Space Agency and of the Agency may be invited to attend the meetings of the Security Accreditation Board as observers.

On an exceptional basis, representatives of Union Agencies, third countries or international organisations may also be invited to attend meetings as observers for matters directly relating to those third countries or international organisations, especially matters concerning the infrastructure belonging to them or established on their territory. Arrangements for such participation of representatives of third countries or international organisations and the conditions therefor shall be laid down in the relevant agreements and shall comply with the rules of procedure of the Security Accreditation Board.

Article 39

Voting rules of the Security Accreditation Board

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

Article 40

Communication and impact of decisions of the Security Accreditation Board

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

Article 41

Role of the Member States in security accreditation

Member States shall:

- (a) transmit to the Security Accreditation Board all information they consider relevant for the purposes of security accreditation;

- (b) permit duly authorised persons appointed by the Security Accreditation Board, in agreement with and under the supervision of national entities competent in security matters, to have access to any information and to any areas and/or sites related to the security of systems falling within their jurisdiction, in accordance with their national laws and regulations, and without any discrimination on ground of nationality of nationals of Member States, including for the purposes of security inspections, audits and tests as decided by the Security Accreditation Board and of the security risk monitoring process referred to in Article 36(h). These audits and tests shall be performed in accordance with the following principles:
- i) the importance of security and effective risk management within the entities inspected shall be emphasised;
 - ii) countermeasures to mitigate the specific impact of loss of confidentiality, integrity or availability of classified information shall be recommended;
- (c) each be responsible for devising a template for access control, which is to outline or list the areas/sites to be accredited, and which shall be agreed in advance between the Member States and the Security Accreditation Board, thereby ensuring that the same level of access control is being provided by all Member States;
- (d) be responsible, at local level, for the accreditation of the security of sites that are located within their territory and form part of the security accreditation area for the components of the Programme, and report, to this end, to the Security Accreditation Board.

CHAPTER III

Protection of classified information

Article 42

~~Application of the rules on classified information to third countries and international organisations~~

Protection of classified information

Within the scope of this Regulation:

- (a) The exchange of classified information related to the Programme shall be subject to the existence of an international agreement between the Union and a third country or international organisation on the exchange of classified information or, where applicable, an arrangement entered into by the competent Union Institution or body and the relevant authorities of a third country or international organisation on the exchange of classified information, and to the conditions laid down therein.
- (b) [...]
- (c) natural persons resident in and legal persons established in third countries may deal with European Union classified information regarding the Programme only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in Commission Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU. The equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including industrial security matters if relevant, concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU;
- (d) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Commission Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to European Union classified information where deemed necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need-to-know and the degree of advantage to the Union.

TITLE VI

Galileo and EGNOS

Article 43

Eligible actions

Eligible actions under Galileo and EGNOS shall cover:

- (a) the management, operation, maintenance, continuous improvement, evolution and protection of the space-based infrastructure, including upgrades and obsolescence management;
- (b) the management, operation, maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular ground based centres and stations, networks, including upgrades and obsolescence management;
- (c) the development of future generations of the systems and the evolution of the services provided by Galileo and EGNOS, without prejudice to future decisions on the Union financial perspectives¹⁹;
- (d) the support of certification and standardisation activities related to Galileo and EGNOS, in particular in the transport sector;
- (e) the continuous provision of the services provided by Galileo and EGNOS and, in complementarity with Member States and private sector initiatives, the market development of those services;

¹⁹ Recital (41) will be amended as follows: "It is imperative that the continuity, sustainability and future availability of the services provided by the Galileo and EGNOS systems be ensured. In a changing environment and rapidly developing market, their development should also continue and new generations of these systems, including associated space and ground segment evolution, should be prepared."

- (f) cooperation with other regional or global satellite navigation systems, including to facilitate compatibility and interoperability;
- (g) elements to monitor the reliability of the systems and their exploitation, and the performance of the services;
- (h) activities related to the provision of services and to the coordination of the extension of their coverage.

Article 44

Services provided by Galileo

1. The services provided by Galileo shall comprise:
 - (a) a Galileo open service (GOS), which shall be free of charge for users and provides positioning and synchronisation information intended mainly for high-volume satellite navigation applications for use by consumers;
 - (b) a high-accuracy service (HAS), which shall be free of charge for users and shall provide, through additional data disseminated in a supplementary frequency band, high-accuracy positioning and synchronisation information intended mainly for satellite navigation applications for professional or commercial use²⁰;
 - (c) a signal authentication service (SAS), based on the encrypted codes contained in the signals, intended mainly for satellite navigation applications for professional or commercial use;

²⁰ To be read in conjunction with Recital 43.

- (d) a public regulated service (PRS), which shall be restricted to government-authorised users for sensitive applications which require a high level of service continuity, including in the area of security and defence, using strong, encrypted signals; it shall be free of charge for the Member States, the Council, the Commission, EEAS and, where appropriate, duly authorised Union agencies; the question of whether to charge the other PRS participants referred to in Article 2 of Decision No 1104/2011/EU shall be assessed on a case-by-case basis and appropriate provisions shall be specified in the agreements concluded pursuant to Article 3(5) of that Decision; access to PRS shall be regulated in accordance with Decision 1104/2011/EU applicable to the Member States, the Council, the Commission, the EEAS and Union agencies;
- (e) an emergency service (ES), which shall be free of charge for users, and broadcast, through emitting signals, warnings regarding natural disasters or other emergencies in particular areas; it shall be provided in coordination with Member States national civil protection authorities, where appropriate;
- (f) a timing service (TS), which shall be free of charge for users and provides an accurate and robust reference time as well as realization of the coordinated universal time, facilitating the development of timing applications based on Galileo and the use in critical applications.

2. Galileo shall also contribute to:

- (a) the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting distress signals transmitted by beacons and relaying messages to them via a ‘return link’;
- (b) integrity-monitoring services standardized at the Union or international level for use by safety-of-life services, on the basis the signals of Galileo open service and in combination with EGNOS and other satellite navigation systems;

- c) space weather information via the GNSS Service Centre²¹ and early warning services via the Galileo ground based infrastructure, intended mainly to reduce the potential risks to users of the services provided by Galileo and other GNSSs related to space.

Article 45

Services provided by EGNOS

1. The services provided by EGNOS shall comprise:
 - (a) an EGNOS open service (EOS), which shall be free of charge for ~~the users~~us, and shall provide positioning and synchronisation information intended mainly for high-volume satellite navigation applications for use by consumers;
 - (b) EGNOS data access service (EDAS), which shall be free of charge for users and shall provide positioning and synchronisation information intended mainly for satellite navigation applications for professional or commercial use, offering improved performance and data with greater added value than those obtained through the EOS;

²¹ See Commission implementing Decision (EU) 2016/413 of 18 March 2016 determining the location of the ground-based infrastructure of the system established under the Galileo programme and setting out the necessary measures to ensure that it functions smoothly, and repealing Implementing Decision 2012/117/EU (OJ L 74, 19.03.2016, pp. 45-49).

(c) a safety-of-life (SoL) service, which shall be free of direct user charges and shall provide positioning and synchronisation information with a high level of continuity, availability and accuracy, including an integrity message alerting users to any failure in, or out-of-tolerance signals emitted by, Galileo and other GNSSs which it augments in the coverage area, intended mainly for users for whom safety is essential, in particular in the sector of civil aviation for the purpose of air navigation services according to ICAO standards or other transport sectors²².

2. The services referred to in paragraph 1 shall be provided as a priority on the territory of all Member States geographically located in Europe, including for this purpose Cyprus, the Azores, the Canary Islands and Madeira.

The geographical coverage of EGNOS may be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of third countries in the European Neighbourhood Policy, subject to technical feasibility and in conformity with security requirements, and for the SoL service, on the basis of international agreements.

²² Recital 40 could be amended as follows: "The aim of EGNOS is to improve the quality of open signals from existing global navigation satellite systems, in particular those emitted by the Galileo system. The services provided by EGNOS should cover, as a priority, the Member States' territories geographically located in Europe, including for this purpose Cyprus, the Azores, the Canary Islands and Madeira, with the aim to cover those territories by the end of 2025. In the aviation domain, all those territories should benefit from EGNOS for air navigation services for the different performance levels supported by EGNOS as APV-I and LPV-200 . Subject to technical feasibility and, for the safety of life, on the basis of international agreements, the geographical coverage of the services provided by EGNOS could be extended to other regions of the world. Without prejudice to Regulation [2018/XXXX] [EASA Regulation] and the necessary monitoring of Galileo service quality for aviation purposes, it should be noted that while the signals emitted by Galileo may effectively be used to facilitate the positioning of aircraft, only local or regional augmentation systems such as EGNOS in Europe may constitute air-traffic management (ATM) services and air navigation services (ANS)."

3. The cost of such extension, including the related operating costs specific to these regions, shall not be covered by the budget referred to in Article 11. Such extension shall not delay the offering of the services referred to in paragraph 1 throughout the territory of Member States geographically located in Europe.

Article 46

Implementing measures for Galileo and EGNOS

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

- (a) manage and reduce the risks inherent in the operation of Galileo and EGNOS, in particular to ensure service continuity;
- (b) specify the key decision stages to monitor and evaluate the implementation of Galileo and EGNOS;
- (c) determine the location of the centres belonging to the ground-based infrastructure of Galileo and EGNOS in accordance with security requirements, following an open and transparent process, and ensure their operation;
- (d) determine the technical and operational specifications relating to the services referred to in Article 44 point (1)(c), (e), (f) and point (2) (c), including where relevant their pricing policy.

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

Compatibility and interoperability

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

TITLE VII

Copernicus

CHAPTER I

General provisions

Article 48

Scope of Copernicus

1. Copernicus shall be implemented building on prior investments and, where appropriate and cost-effective, drawing on the national or regional capacities of Member States and taking into account the capacities of commercial suppliers of comparable data and information and the need to foster competition and market development, while maximising opportunities for European users.²³
2. Copernicus shall deliver data and information, building on Copernicus user needs and pursuing a full, free and open data policy.

²³ The following recital should be added: "Copernicus's free, full and open data policy has been evaluated as one of the most successful elements of Copernicus' implementation and has been instrumental in driving strong demand for its data and information, establishing Copernicus as one of the largest EO data provider in the world. There is a clear need to guarantee the long-term and secure continuity of the free, full and open data provision and access should be safeguarded in order to realise the ambitious goals as set out in the Space Strategy for Europe (2016). Copernicus data is created primarily for the benefit of European citizens, and by making this data freely available worldwide collaboration opportunities are maximized for EU businesses and academics and contribute to an effective European space ecosystem. Should any limitation be placed on the access to Copernicus data and information, it should be in line with the Copernicus data policy as defined in this Regulation and Commission Delegated Regulation (EU) No 1159/2013.

3. Copernicus shall comprise four elements, namely:
- (a) data acquisition which shall include:
 - the development and operations of the Copernicus Sentinels;
 - access to third party space-borne Earth Observation data ;
 - access to in situ and other ancillary data;
 - b) data and information processing through Copernicus Services, which shall include activities for the generation of value-added information to support environmental monitoring, reporting and compliance assurance, civil protection and security services;
 - c) data access and distribution, which shall include infrastructure and services to ensure the discovery, viewing, access to, distribution and exploitation and long-term preservation of Copernicus data and Copernicus information ²⁴;
 - (d) user uptake, market development and capacity building in accordance with Article 29(5), which shall include relevant activities, resources and services to promote Copernicus, its data and Services at all levels to maximise socio-economic benefits which are referred to in Article 4(1) as well as the collection and analysis of user needs.
- 3a. The Commission shall adopt implementing acts in accordance with the examination procedure referred to in Art. 107(3) concerning the technical specifications of the Copernicus Services defined in Article 50 and the Sentinel missions referred to in Article 49(a).
4. Copernicus shall promote the international coordination of observation and monitoring systems and related exchanges of data in order to strengthen its global dimension and complementarity taking account of existing international agreements and coordination processes.

²⁴ Article 29(5) amended to include the reference to interfaces

CHAPTER II

Eligible actions

Article 49

Data acquisition

Eligible actions under Copernicus shall cover:

- (a) actions to provide enhanced continuity of existing Sentinel missions and to develop, launch, maintain and operate further Sentinels expanding the observation scope, giving priority in particular to: observation capacities for monitoring anthropogenic CO₂ and other greenhouse gas emissions, allowing for monitoring polar regions and enabling innovative environmental applications in agriculture, forest, water and marine resources management, and cultural heritage;
- (b) actions to provide access to third-party data necessary to generate Copernicus services or for use by the Union's institutions, agencies, decentralised services and, when possible, national or regional public bodies;
- (c) actions to provide and coordinate access to in situ and other ancillary data necessary for the generation, calibration and validation of Copernicus data and Copernicus information, including where appropriate and cost-effective the use of existing national capacities and avoiding duplications.

Copernicus Services

1. Copernicus shall include actions in support of the following services:
 - (a) environmental monitoring, reporting and compliance assurance services covering:
 - atmosphere monitoring to provide information on air quality at European scale and composition of the atmosphere at global scale;
 - marine environment monitoring to provide information on the state and dynamics of ocean, sea and coastal ecosystems, their resources and use;
 - land monitoring and agriculture to provide information on land cover, land use and land use change, ground motion, urban areas, inland water quantity and quality, forests, agriculture and other natural resources, biodiversity and cryosphere;
 - climate change monitoring to provide information on anthropogenic CO₂ and other greenhouse gas emissions and absorptions, essential climate variables, climate reanalyses, seasonal forecasts, climate projections and attribution, information on Polar/Arctic changes, as well as indicators at relevant temporal and spatial scales;
 - (b) emergency management service to provide information in support of and in coordination with public authorities concerned with civil protection, supporting civil protection and emergency response operations (improving early warning activities and crisis response capacities), and prevention and preparedness actions (risk and recovery analyses) in relation to different types of disasters;
 - (c) security service to support surveillance of the Union's external borders, maritime surveillance, as well as Union external action responding to security challenges facing the Union, and Common Foreign and Security Policy objectives and actions.

2. The Commission, with the support of independent experts, shall ensure the pertinence of the Services by:
 - (a) validating the technical feasibility and fitness for purpose of the requirements expressed by the user communities;
 - (b) assessing the means and solutions, proposed or executed, to meet the requirements of the user communities and the objectives of the Programme.

Article 51

Data and information access and distribution

1. Copernicus shall include actions to provide enhanced access to all Copernicus data and Copernicus information and, where appropriate, provide additional infrastructure and services to foster the distribution, access and use of those data and information²⁵.

²⁵ Recital (56) is to be modified as follows: "The data and information produced in the framework of Copernicus should be made available on a full, open and free-of-charge basis subject to appropriate conditions and limitations, in order to promote their use and sharing, and to strengthen the European Earth observation markets, in particular the downstream sector, thereby enabling growth and job creation in the Union. Such provision should continue to provide data and information with high levels of consistency, continuity, reliability, and quality. This calls for large-scale and user-friendly access to, processing and exploitation of Copernicus data and information, at various timeliness levels, for which the Commission should continue to follow an integrated approach, both at EU and Member States level, enabling also integration with other sources of data and information. Therefore Copernicus should foster interoperability between the Data and Information Access Services (DIAS) and other existing European EO data infrastructures to establish synergies with these assets in order to maximise and strengthen market uptake of Copernicus data and information".

2. Where Copernicus data or Copernicus information are security sensitive according to Articles 12 to 16 of Commission Delegated Regulation (EU) No 1159/2013²⁶, the Commission may entrust the procurement, the supervision of the acquisition, the access to and the distribution of those data and information to one or more fiduciary entities. Such entities shall set up and maintain a registry of accredited users and grant access to the restricted data through a segregated workflow.

CHAPTER III

Copernicus data policy

Article 52

Copernicus data and Copernicus information policy

1. Copernicus data and Copernicus information shall be provided to users under the following free, full and open data policy:
 - (a) Copernicus users may, on a free and worldwide basis, reproduce, distribute, communicate to the public, adapt and modify all Copernicus data and Copernicus information and combine them with other data and information;
 - (b) the free, full and open data policy shall include the following limitations:
 - (i) the formats, timeliness and dissemination characteristics of Copernicus data and Copernicus information shall be pre-defined;
 - (ii) the licensing conditions of third-party data and third-party information used in the production of Copernicus Services information shall be abided by where applicable;

²⁶ Commission Delegated Regulation (EU) No 1159/2013 of 12 July 2013 supplementing Regulation (EU) No 911/2010 of the European Parliament and of the Council on the European Earth monitoring programme (GMES) by establishing registration and licensing conditions for GMES users and defining criteria for restricting access to GMES dedicated data and GMES service information (OJ L 309, 19.11.13, p. 1)

- (iii) the security limitations resulting from the general security requirements referred to in Article 34(1);
 - (iv) protection against the risk of disruption of the system producing or making available Copernicus data and Copernicus information and of the data itself shall be ensured;
 - (v) the protection of reliable access to Copernicus data and Copernicus information
2. The Commission shall adopt delegated acts in accordance with Article 105 concerning the specific provisions to supplement paragraph 1 as regards the specifications and conditions and procedures for the access to and use of Copernicus data and Copernicus information.
3. The Commission shall issue licenses and notices for access and use of Copernicus data and Copernicus information, including attribution clauses, in compliance with the Copernicus data policy as set out in this Regulation and applicable delegated acts under paragraph 2.

TITLE VIII

OTHER COMPONENTS OF THE PROGRAMME

CHAPTER I

SSA

SECTION I

SST

Article 53

Scope of SST

1. The SST sub-components shall support the following activities:
 - (a) the establishment, development, maintenance and operation of a network of ground-based and/or space-based SST sensors of the Member States, including sensors developed through the European Space Agency or the Union private sector, and nationally operated Union sensors, to survey and track space objects and to produce a European catalogue' of space objects;
 - (b) the processing and analysis of SST data at national level in order to produce SST information and services referred to in Article 54;
 - (c) the provision of the SST services referred to in Article 54 to the users referred to in Article 55;
 - (d) monitoring and seeking synergies with initiatives promoting development and deployment of technologies for spacecraft disposal at the end of operational lifetime, of technological systems for the prevention and elimination of space debris as well as with the international initiatives in the area of the space traffic management.

2. The SST component shall also provide technical and administrative support to ensure the transition between the EU Space Programme and the SST Support Framework established by Decision No 541/2014/EU.

Article 54

SST services

1. SST services shall comprise:
 - (a) the risk assessment of collision between spacecraft or between spacecraft and space debris and the potential generation of collision avoidance alerts during the phases of launch, early orbit, orbit raising, in-orbit operations and disposal phases of spacecraft missions;
 - (b) the detection and characterisation of in-orbit fragmentations, break-ups or collisions;
 - (c) the risk assessment of the uncontrolled re-entry of space objects and space debris into the Earth's atmosphere and the generation of related information, including the estimation of the timeframe and likely location of possible impact;
 - (d) the development of activities linked to:
 - (i) space debris mitigation **in order** to reduce their generation, and
 - (ii) space debris remediation by managing the existing space debris population.
2. SST services shall be free of charge, available at any time without interruption and adapted to the needs of the users referred to in Article 55.
3. Participating Member States, the Commission and, where relevant, the Front desk, shall not be held liable for:
 - (a) any damage resulting from the lack of or interruption in the provision of SST services;
 - (b) any delay in the provision of SST services;

- (c) any inaccuracy of the information provided through the SST services; or
- (d) any action undertaken in response to the provision of SST services.

Article 55

SST Users

1. EU users shall comprise:

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

SST core users shall have access to all SST services referred to in Article 54(1).

SST non core users may have access to SST services referred to in points (b) to (d) of Article 54(1).

2. International users shall comprise third countries, international organisations not having their headquarters in the Union and private entities not established in the Union under the following conditions:

- (a) third countries and international organisations not having their headquarters in the Union may have access to SST services pursuant to Article 8(1a).
- (b) Private entities not established in the Union may have access to SST services subject to an international agreement, established in accordance with Article 8(1a), with the third country in which they are established granting them that access.

3. By derogation to paragraph 2 of this Article, no international agreement shall be required where an SST service referred to in Article 54(1) is publically available.

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

Article 56

Participation of Member States

1. Member States wishing to participate in the provision of SST services referred to in Article 54 covering all orbits shall submit a single joint proposal to the Commission demonstrating compliance with the following criteria:
 - (a) ownership of, or access to, either adequate SST sensors available for EU SST and human resources to operate them, or adequate operational analysis and data processing capabilities specifically designed for SST and available for EU SST;
 - (b) initial security risk assessment of each SST asset performed and validated by the relevant Member State;
 - (c) an action plan taking into account the coordination plan adopted under Article 6 of Decision 541/2014/EU, for the implementation of the activities set out in Article 53 of this Regulation;
 - (d) the distribution of the different activities among the Expert Teams as designated pursuant to Article 57;
 - (e) the rules on the sharing of data necessary for achieving the objectives referred to in Article 4.

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

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

2. The criteria referred to in points (a) and (b) of paragraph 1 shall be deemed to be fulfilled by the participating Member States whose designated national entities are members of the Consortium established in accordance with Article 7 of Decision No 541/2014/EU as on the date of entry into force of this Regulation.
3. Where no joint proposal has been submitted in accordance with paragraph 1 or where the Commission considers that a joint proposal thus submitted does not comply with the criteria referred to in paragraph 1, at least five Member States may submit a new joint proposal to the Commission, demonstrating compliance with the criteria referred to in paragraph 1.
4. The Commission may adopt, by means of implementing acts, the detailed provisions concerning the procedures and elements referred to in paragraphs 1 to 3. Those implementing measures shall be adopted in accordance with the examination procedure referred to in Article 107(3) ²⁷.

²⁷ **The following Recital will be added: "Implementing powers should be conferred on the Commission to define the detailed procedures and elements for establishing the participation of Member States. Where no joint proposal has been submitted or where the Commission considers that such proposal does not comply with the criteria set, the Commission may launch a second step for the participation of Member States. The procedures and elements for that second step should define the orbits to be covered, and take into account the need to maximise the participation of Member States in the provision of SST services. Where those procedures and elements foresee the possibility for the Commission to select several proposals to cover all the orbits, appropriate coordination mechanisms between the groups of Member States and an efficient solution to cover all the SST services should also be provided."**

Organisational framework of Member States' participation

1. All Member States which have submitted a proposal that has been found compliant by the Commission in accordance with Article 56(1) or which have been selected by the Commission pursuant to the procedure referred to in Article 56(3) shall designate a Constituting National Entity established on their territory to represent them. The Constituting National Entity shall be a Member State public authority or a body entrusted with the exercise of such public authority.
2. The Constituting National Entities designated pursuant to paragraph 1 shall conclude an agreement creating an SST partnership and laying down the rules and mechanisms for their cooperation in implementing the activities referred to in Article 53. In particular, that agreement shall include the elements mentioned in points (c) to (e) of Article 56(1) and the establishment of a risk management structure to ensure the implementation of the provisions on the use and secure exchange of SST data and SST information.
3. The Constituting National Entities shall develop Union SST services of high quality in accordance with a multiannual plan, relevant key performance indicators and users' requirements, on the basis of the activities of the Expert Teams referred to in paragraph 6. The Commission may adopt, by means of implementing acts, the multiannual plan and the key performance indicators in accordance with the examination procedure referred to in Article 107(3).
4. The Constituting National Entities shall network existing and possible future sensors to operate them in a coordinated and optimised way with a view to establishing and maintaining an up-to-date common European catalogue, **without prejudice to Member States' prerogatives in the area of national security.**
5. The participating Member States shall perform security accreditation on the basis of the general security requirements referred to in Article 34(1).

6. Expert Teams shall be designated by the SST participating Member States to be in charge of specific issues related to the different SST activities. The Expert Teams shall be permanent, managed and staffed by the Constituting National Entities of the Member States which set them up and may include experts from every Constituting National Entity.
7. Constituting National Entities and Expert Teams shall ensure the protection of SST data, SST information and SST services.
8. The Commission shall adopt, by implementing acts, detailed rules on the functioning of the organisational framework of the participation of Member States in SST. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

Article 58

SST Front desk

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

SECTION II

Space Weather and NEO

Article 59

Space Weather activities

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

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

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

NEO activities

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

CHAPTER II

GOVSATCOM

Article 61

Scope of GOVSATCOM²⁸

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

- (a) the development, construction, and operations of the ground segment infrastructure referred to in Article 66 and possible space infrastructure referred to in Article 69;²⁹
- (b) the procurement of **governmental and commercial** satellite communication capacity, services, and user equipment necessary for the provision of GOVSATCOM services;
- (c) measures necessary to further interoperability and standardisation of GOVSATCOM equipment.

²⁸ The following Recital 73a (new) should be added: "GOVSATCOM capacity and services will be used in security and safety critical missions and operations by Union and Member State actors. Therefore an appropriate level of non-dependence from third parties (third states and entities from third states) is needed, covering all GOVSATCOM elements, such as space and ground technologies at component, subsystem and system level, manufacturing industries, owners and operators of space systems, physical location of ground system components."

²⁹ **Recital 76 will be amended as follows:** In the first phase of GOVSATCOM (roughly until 2025) existing capacity ~~from private actors and Member States~~ will be used. **In that context, the Commission should procure EU GOVSATCOM capacities from Member States with national systems and space capacities and from Union commercial satellite communication or service providers.** In this first phase services will be introduced in a stepped approach, ~~first to Union-level users~~. If in the course of the first phase a detailed analysis of future supply and demand reveals that this approach is insufficient to cover the evolving demand, the decision may be taken to move to a second phase and develop additional bespoke space infrastructure or capabilities through one or several public-private partnerships, e.g. with Union satellite operators.

Capacities and services provided under GOVSATCOM

1. The provision of GOVSATCOM capacities and services, ~~free of charge for GOVSATCOM users referred to in Article 64~~, shall be ensured as laid down in the service portfolio referred to in paragraph 3, in accordance with the operational requirements referred to in paragraph 2, GOVSATCOM specific security requirements referred to in Article 34(1) and within the limits of the sharing and prioritisation rules referred to in Article 65.
2. The Commission shall adopt, by means of implementing acts, the operational requirements for services provided under GOVSATCOM, in the form of technical specifications for use-cases related in particular to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those operational requirements shall be based on the detailed analysis of the requirements of users, and taking into account requirements stemming from existing user equipment and networks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).
3. The Commission shall adopt, by means of implementing acts, the service portfolio for services provided under GOVSATCOM, in the form of a list of categories of satellite communication capacities and services and their attributes, including geographic coverage, frequency, bandwidth, user equipment, and security features. Those measures shall be regularly updated and shall be based on the operational and security requirements referred to in paragraph 1 and shall prioritise services provided to users according to their relevance and criticality. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).
4. GOVSATCOM users shall have access to the capacities and services listed in the service portfolio. That access shall be provided through the GOVSATCOM Hubs referred to in Article 66.

Article 63

Providers of satellite communication capacities and services

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

- (a) GOVSATCOM participants as referred to in Article 67, and
- (b) legal persons duly accredited to provide satellite capacities or services in accordance with the security accreditation procedure referred to in Article 36, which shall be based on the general security requirements referred to in Article 34 (1) defined for the GOVSATCOM component.

Article 64

GOVSATCOM users

1. The following entities may be GOVSATCOM users provided that they are entrusted with tasks relating to the supervision and management of emergency and security-critical missions, operations and infrastructures:
 - (a) Union or Member State public authority or a body charged with the exercise of such public authority,
 - (b) a natural or legal person acting on behalf of and under the control of an entity referred to under (a).
2. GOVSATCOM users shall be duly authorised by a participant referred to in Article 67 to use GOVSATCOM capacities and services and shall comply with the general security requirements referred to in Article 34(1), defined for the GOVSATCOM component³⁰.

³⁰ Article 34 should include rules on the users as referred to in article 64(2)

Sharing and prioritisation

1. Pooled satellite communication capacities, services and user equipment shall be shared and prioritised between GOVSATCOM participants on the basis of an analysis of safety and security risks of the users³¹. Such analysis shall take into account existing communication infrastructure and availability of existing capabilities as well as their geographic coverage, at Union and Member State level. This sharing and prioritisation shall prioritise users according to their relevance and criticality, **and if necessary, define a pricing policy**³².
2. The Commission shall adopt, by means of implementing acts, the detailed rules on the sharing and prioritisation of capacities, services, and user equipment, taking into account expected demand for the different use-cases, the analysis of security risks for those use-cases and, where appropriate, cost-efficiency. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).
3. The sharing and prioritisation of satellite communication capacities and services between GOVSATCOM users which are authorised by the same GOVSATCOM participant shall be determined and implemented by that participant.

³¹ Article 34 should include rules on the performance of security risks referred to in article 65(1).

³² **Recital 84 will be modified as follows:** (84) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers regarding the sharing and prioritisation rules for the use of pooled GOVSATCOM satellite communication capacities, should be conferred on the Commission. ~~It will give the possibility to~~ **When defining the sharing and prioritisation rules,** the Commission **should** take into account the operational and security requirements and an analysis of risks and expected demand by GOVSATCOM participants. **Although GOVSATCOM services should in principle be provided on a free-of-charge basis to GOVSATCOM users, if that analysis concludes on a shortage of capacities, a pricing policy might be developed as part of those detailed rules on sharing and prioritisation.** Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

Article 66

Ground segment infrastructure and operation

1. The ground segment shall include infrastructure necessary to enable the provision of services to users in accordance with Article 65, particularly the GOVSATCOM Hubs which shall be procured under this component to connect GOVSATCOM users with providers of satellite communication capacities and services. The ground segment and its operation shall comply with the general security requirement referred to in Article 34(1), defined for the GOVSATCOM component.
2. The Commission shall determine, by means of implementing acts, the location of the ground segment infrastructure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3), and shall be without prejudice to the right of a Member State to decide not to host any such infrastructure.

Article 67

GOVSATCOM participants and competent authorities

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

Where the Council, the Commission or the EEAS authorise GOVSATCOM users, or provide satellite communication capacities or ground segment sites or part of the ground segment facilities, on the territory of a Member State, such authorisation or provision shall not contravene neutrality or non-alignment provisions stipulated in the constitutional law of that Member State.³³

2. Union agencies may become GOVSATCOM participants only insofar as necessary to fulfill their tasks and in accordance with detailed rules laid down in an administrative arrangement concluded between the agency concerned and the Union institution that supervises it.
3. Each participant shall designate one competent GOVSATCOM authority.
4. A competent GOVSATCOM authority shall ensure that
 - (a) the use of services is in compliance with the applicable security requirements;
 - (b) the access rights for GOVSATCOM users are determined and managed;
 - (c) user equipment and associated electronic communication connections and information are used and managed in accordance with applicable security requirements;
 - (d) a central point of contact is established to assist as necessary in the reporting of security risks and threats, in particular the detection of potentially harmful electromagnetic interference affecting the services under this component.

³³ The following recital is to be added: "Member States, the Council, the Commission and the EEAS may become GOVSATCOM participants, insofar as they choose to authorise GOVSATCOM users or provide capacities, sites or facilities. Considering that it is a Member State's choice whether they authorise GOVSATCOM users or provide capacities, sites or facilities, Member States cannot be obliged to become GOVSATCOM participants or to host GOVSATCOM infrastructure. The GOVSATCOM component of the Programme is therefore without prejudice to the right of Member States not to participate in GOVSATCOM, including in accordance with its national law or constitutional requirements in relation to policies concerning non-alignment and non-participation in military alliances."

Article 68

Monitoring of supply and demand for GOVSATCOM

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

Article 69

Review clause GOVSATCOM

Before the end of 2024, the Commission shall evaluate the implementation of the GOVSATCOM component, notably as regards the evolution of the user needs in relation to the satellite communication capacity referred to in Article 68 and a possible pricing policy. The evaluation shall in particular examine the need for additional space and ground infrastructure and be based on a cost/benefit analysis. The evaluation shall be accompanied, if necessary, by an appropriate proposal for the development of additional space infrastructure under the GOVSATCOM component.

TITLE IX

THE EUROPEAN UNION AGENCY FOR THE SPACE PROGRAMME

CHAPTER I

General provisions relating to the Agency

Article 70

Legal status of the Agency

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

Article 71

Seat of the Agency and local offices³⁴

- 1 The seat of the Agency is located in Prague (Czech Republic).

³⁴ The following recital on the Agency location will be added: "The seat of the Agency is located in Prague in accordance with Decision 2010/803/EU. For the implementation of the Agency's tasks, staff of the Agency might be located in one of the Galileo or EGNOS ground based centres referred to in Commission Implementing Decision (EU) 2016/413 to execute the tasks for which such centre was set up. In addition, for the Agency to operate in the most efficient and effective manner, a limited number of staff could be assigned to local offices in one or more Member States. The location of staff outside the seat of the Agency or Galileo and EGNOS sites should not lead to transfer of the core of the Agency's core activities to such local offices".

2. Staff of the Agency may be located in one of the Galileo or EGNOS ground based centres referred to in Commission Implementing Decision (EU) 2016/413 **or (EU) 2017/1406**, to execute ~~the tasks for which such centre was set up~~ **Programme activities provided for in the relevant agreement.**
3. Depending on the needs of the Programme, local offices may be established in the Member States in accordance with the procedure laid down in Article 79(2).

CHAPTER II

Organisation of the Agency

Article 72

Administrative and management structure

1. The Agency's administrative and management structure shall comprise:
 - (a) the Administrative Board;
 - (b) the Executive Director;
 - (c) the Security Accreditation Board.
2. The Administrative Board, the Executive Director, the Security Accreditation Board shall cooperate to ensure the operation of the Agency and coordination in accordance with the procedures determined by the Agency's internal rules, such as the rules of procedure of the Administrative Board, the rules of procedure of the Security Accreditation Board, the financial rules applicable to the Agency, the implementing rules for the status of staff and the rules governing access to documents.

Administrative Board

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

Article 74

Chairperson of the Administrative Board

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

Article 75

Meetings of the Administrative Board

1. Meetings of the Administrative Board shall be convened by its Chairperson.
2. The Executive Director shall take part in the deliberations, unless the Chairperson decides otherwise. He/she shall not have the right to vote.
3. The Administrative Board shall hold ordinary meetings on a regular basis, preferably four times a year. In addition, it shall meet on the initiative of its Chairperson or at the request of at least one third of its members.
4. The Administrative Board may invite any person whose opinion may be of interest to attend its meetings as an observer. The members of the Administrative Board may, subject to its rules of procedure, be assisted by advisers or experts.

5. Where discussion concerns the use of sensitive national infrastructure, only the representatives of Member States which possess such infrastructure and the representative of the Commission may attend the meetings and deliberations of the Administrative Board and take part in voting. Where the Chairperson of the Administrative Board does not represent one of the Member States which possess such infrastructure, he/she shall be replaced by the representatives of a Member States which possesses such infrastructure. The rules of procedure of the Administrative Board shall set out the situations in which this procedure may apply.
6. The Agency shall provide the secretariat of the Administrative Board.

Article 76

Voting rules of the Administrative Board

1. Unless this Regulation provides otherwise, the Administrative Board shall take its decisions by a majority of its voting members.

A majority of two thirds of all voting members shall be required for the election and dismissal of the Chairperson and Deputy Chairperson of the Administrative Board and for the adoption of the budget, work programmes, approval of arrangements referred to in Article 98(2), security rules of the Agency, adoption of the rules of procedure and for the establishment of local offices. For the election and dismissal of the Chairperson and Deputy Chairperson, where this majority has not been achieved following two meeting of the Administrative board, a simple majority shall be applied.

2. Each representative of the Member States and of the Commission shall have one vote. In the absence of a member with the right to vote, his or her alternate shall be entitled to exercise his or her right to vote. Decisions based on points (a) of Article 77(2), except for matters covered by Chapter II of Title V, or on Article 77(5), shall only be adopted with a favourable vote of the representatives of the Commission.
3. The rules of procedure of the Administrative Board shall establish more detailed voting arrangements, in particular the conditions for a member to act on behalf of another member as well as any quorum requirements as appropriate.

Tasks of the Administrative Board

1. The Administrative Board shall ensure that the Agency carries out the work entrusted to it, under the conditions set out in this Regulation, and shall take any necessary decision to this end, without prejudice to the competences entrusted to the Security Accreditation Board for the activities under Chapter II of Title V.
2. The Administrative Board shall also:
 - (x) adopt, by 30 June of the first year of the multiannual financial framework provided for under Article 312 of the Treaty on the Functioning of the European Union, the multiannual work programme of the Agency for the period covered by that multiannual financial framework after incorporating, without any change, the section drafted by the Security Accreditation Board in accordance with point(a) of Article 80 and after having received the Commission's opinion.³⁵
 - (a) adopt, by 15 November each year, the Agency's work programme for the following year after incorporating, without any change, the section drafted by the Security Accreditation Board, in accordance with point (b) of Article 80, and after having received the Commission's opinion;
 - (b) perform the budgetary functions laid down in Article 84(5), (6), (10) and (11);
 - (c) oversee the operation of the Galileo Security Monitoring Centre as referred to in Article 34(3), point (b);
 - (d) adopt arrangements to implement Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents³⁶, in accordance with Article 94;

³⁵ A mirroring provision shall be added in the tasks of the SAB.

³⁶ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

- (e) approve the arrangements referred to in Article 98(2), after consulting the Security Accreditation Board, on the provisions of the arrangements concerning security accreditation;
- (f) adopt the technical procedures necessary to perform its tasks;
- (g) adopt the annual report on the activities and prospects of the Agency, having incorporated, without any change, the section drafted by the Security Accreditation Board in accordance with point (c) of Article 80 and forward it, by 1 July, to the European Parliament, the Council, the Commission and the Court of Auditors;
- (h) ensure adequate follow-up to the findings and recommendations arising from the evaluations and audits referred to in Article 102, as well as those arising from investigations conducted by the European Anti-Fraud Office (OLAF) and all internal or external audit reports, and forward to the budgetary authority all information relevant to the outcome of the evaluation procedures;
- (i) be consulted by the Executive Director on the financial framework partnership agreements referred to in Article 31(2) and contribution agreements referred to in Articles 28(2a) and 30(5) before they are signed;
- (j) adopt the security rules of the Agency as referred to in Article 96;
- (k) approve, on the basis of a proposal from the Executive Director, an anti-fraud strategy;
- (l) approve, where necessary and on the basis of proposals from the Executive Director, the organisational structures referred to in point (l) of Article 79(1);
- (m) [...]

- (n) appoint an Accounting Officer, who may be the Commission's Accounting Officer, who shall be subject to the Staff Regulations and the Conditions of Employment of other servants and who shall be totally independent in the performance of his/her duties;
- (o) adopt and publish its rules of procedure.

3. With regard to the Agency's staff, the Administrative Board shall exercise the powers conferred by the Staff Regulations of Officials of the European Union ('Staff Regulations') on the appointing authority and by the Conditions of Employment of Other Servants on the authority empowered to conclude employment contracts (the 'powers of the appointing authority').

The Administrative Board shall adopt, in accordance with the procedure provided for in Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant powers of the appointing authority to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director shall report back to the Administrative Board on the exercise of those delegated powers. The Executive Director shall be authorised to subdelegate those powers.

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

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

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

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

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

Article 78

Executive Director

The Agency shall be managed by its Executive Director. The Executive Director shall be accountable to the Administrative Board, without prejudice to the powers granted to the Security Accreditation Board and the chairperson of the Security Accreditation Board in accordance with Articles 37 and 81 respectively.

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

Tasks of the Executive Director

1. The Executive Director shall perform the following tasks:
 - (a) represent the Agency and sign the agreement referred to in Articles 31(2), 28(2a) and 30(5);
 - (b) prepare the work of the Administrative Board and participate, without having the right to vote, in the work of the Administrative Board, subject to the second subparagraph of Article 76;
 - (c) implement the decisions of the Administrative Board;
 - (d) prepare the multiannual and annual work programmes of the Agency and submit them to the Administrative Board for approval, with the exception of the parts prepared and adopted by the Security Accreditation Board in accordance with points (a) and (b) of Article 80;
 - (e) implement the multiannual and annual work programmes, with the exception of the parts implemented by the Chairperson of the Security Accreditation Board;
 - (f) prepare a progress report on the implementation of the annual work programme and, where relevant, of the multiannual work programme for each meeting of the Administrative Board, incorporating, without any change, the section prepared by the Chairperson of the Security Accreditation Board;
 - (g) prepare the annual report on the activities and prospects of the Agency with the exception of the section prepared and approved by the Security Accreditation Board in accordance with point (c) of Article 80 concerning the activities covered by Title V, and submit it to the Administrative Board for approval;

- (h) handle the day-to-day administration of the Agency and take all necessary measures, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with this Regulation;
- (i) draw up a draft statement of estimates of revenue and expenditure for the Agency in accordance with Article 84 and implement the budget in accordance with Article 85;
- (j) ensure that the Agency, as the operator of the Galileo Security Monitoring Centre is able to respond to instructions provided under Decision 2014/496/CFSP and to fulfil its role as referred to in Article 6 of Decision No 1104/2011/EU;
- (k) ensure the circulation of all relevant information, in particular as regards security, within the agency structure referred to in Article 72(1);
- (l) determine, in close cooperation with the Chairperson of the Security Accreditation Board for matters relating to security accreditation activities covered by Chapter II of Title V, the organisational structures of the Agency and submit them to the Administrative Board for approval. Those structures shall reflect the specific characteristics of the various components of the Programme;
- (m) exercise, with regard to the Agency's staff, the powers referred to in the first subparagraph of Article 77(3), to the extent that those powers have been delegated to him or her in accordance with the second subparagraph thereof;
- (n) ensure that secretarial services and all the resources necessary for their proper functioning are provided to the Security Accreditation Board, the bodies referred to in Article 82(3) and the Chairperson of the Security Accreditation Board;
- (o) prepare an action plan for ensuring the follow-up of the findings and recommendations of the evaluations referred to in Article 102, with the exception of the section of the action plan concerning the activities covered by Chapter II of Title V, and submit, after having incorporated, without any change, the section drafted by the Security Accreditation Board, a twice-yearly progress report to the Commission, which shall also be submitted to the Administrative Board for information;

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

Article 80

Management tasks of the Security Accreditation Board

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

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

Article 81

The Chairperson of the Security Accreditation Board

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

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

Article 82

Organisational aspects of the Security Accreditation Board

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

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

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

Article 83

Tasks of the Chairperson of the Security Accreditation Board

1. The Chairperson of the Security Accreditation Board shall ensure that the Board carries out its security accreditation activities totally independently and shall perform the following tasks:
 - (a) manage security accreditation activities under the supervision of the Security Accreditation Board;
 - (b) implement the part of the Agency's multiannual and annual work programmes covered by Chapter II of Title V under the supervision of the Security Accreditation Board;
 - (c) cooperate with the Executive Director to help to draw up the draft establishment plan referred to in Article 84(4) and the organisational structures of the Agency;
 - (d) prepare the section of the progress report concerning the operational activities covered by Chapter II of Title V, and submit it to the Security Accreditation Board and the Executive Director in good time for it to be incorporated into the progress report;
 - (e) prepare the section of the annual report and of the action plan, concerning the operational activities covered by Chapter II of Title V, and submit it to the Executive Director in good time;
 - (f) represent the Agency for the activities and decisions covered by Chapter II of Title V;
 - (g) exercise, with regard to the Agency's staff involved in the activities covered by Chapter II of Title V, the powers referred to in the first subparagraph of Article 77(3), delegated to him or her in accordance with the fourth subparagraph of Article 77(3).

2. For activities covered by Chapter II of Title V, the European Parliament and the Council may call upon the Chairperson of the Security Accreditation Board for an exchange of views before those institutions on the work and prospects of the Agency, including with regard to the multiannual and annual work programmes.

CHAPTER III

Financial provisions relating to the Agency

Article 84

The Agency's budget

1. Without prejudice to other resources and dues, the revenue of the Agency shall include a Union contribution entered in Union budget in order to ensure a balance between revenue and expenditure. The agency may receive ad hoc grants from the Union budget.
2. The expenditure of the Agency shall cover staff, administrative and infrastructure expenditure, operating costs and expenditure associated with the functioning of the Security Accreditation Board, including the bodies referred to in Article 37(3) and Article 82 (3), and the contracts and agreements concluded by the Agency in order to accomplish the tasks entrusted to it.
3. Revenue and expenditure shall be in balance.

4. The Executive Director shall, in close collaboration with the Chairperson of the Security Accreditation Board for activities covered by Chapter II of Title V, draw up a draft statement of estimates of revenue and expenditure for the Agency for the next financial year, making clear the distinction between those elements of the draft statement of estimates, which relate to security accreditation activities, and those relating to the Agency's other activities. The Chairperson of the Security Accreditation Board may write a statement on that draft, and the Executive Director shall forward both the draft statement of estimates and the statement to the Administrative Board and the Security Accreditation Board, together with a draft establishment plan.
5. Each year, the Administrative Board, based on the draft statement of estimates of revenue and expenditure and in close cooperation with the Security Accreditation Board for activities covered by Chapter II of Title V, shall draw up the statement of estimates of revenue and expenditure for the Agency for the next financial year.
6. The Administrative Board shall, by 31 January, forward a draft single programming document including inter alia a statement of estimates, a draft establishment plan, a provisional annual work programme, to the Commission and to the third countries or international organisations with which the Agency has entered into arrangements in accordance with Article 98.
7. The Commission shall forward the statement of estimates of revenue and expenditure to the European Parliament and to the Council (the 'budgetary authority') together with the draft general budget of the European Union.
8. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the Treaty on the Functioning of the European Union.

9. The budgetary authority shall authorise the appropriations for the contribution to the Agency and shall adopt the establishment plan for the Agency.
10. The budget shall be adopted by the Administrative Board. It shall become final following final adoption of the general budget of the European Union. Where necessary, it shall be adjusted accordingly.
11. The Administrative Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which will have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.
12. Where an arm of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Administrative Board within a period of six weeks from the date of notification of the project.

Article 85

Implementation of the Agency's budget

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

Article 86

Presentation of the Agency's accounts and discharge

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

Article 87

Financial provisions relating to the Agency

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

CHAPTER V

The Agency's human resources

Article 88

The Agency's staff

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

Appointment and term of office of the Executive Director

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

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

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

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

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

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

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

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

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

The Administrative Board shall inform the European Parliament of its intention to extend the term of office of the Executive Director. Before the extension, the Executive Director may be invited to make a statement before the relevant committees of the European Parliament and answer Members' questions.

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

Article 90

Secondment of national experts to the Agency

The Agency may employ national experts from Member States, as well as, pursuant to Article 98(2), national experts from participating third countries and international organisations. These experts shall have security clearance appropriate to the classification of the information they are handling pursuant to Article 42(c). The Staff Regulations and the Conditions of Employments of Other Servants shall not apply to such staff.

CHAPTER VI

Other provisions

Article 91

Privileges and immunities

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

Article 92

Hosting agreements and operating conditions

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

Article 93

Linguistic arrangements for the Agency

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community³⁷ shall apply to the Agency.

³⁷ OJ 17, 6.10.1958, p. 385–386.

2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the Bodies of the European Union.

Article 94

Policy on access to documents held by the Agency

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

Article 95

Fraud prevention by the Agency

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council, the Agency shall, within six months from the day it becomes operational, accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF)³⁸ and adopt appropriate provisions applicable to all employees of the Agency using the template set out in the Annex to that Agreement.
2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.

³⁸ OJ L 136, 31.5.1999, p. 15.

3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 and in Regulation (EU, Euratom) No 883/2013.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Article 96

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

The Agency shall, subject to prior consultation of the Commission, adopt its own security rules equivalent to the Commission's security rules for protecting EUCI and sensitive non-classified information, including rules concerning the exchange, processing and storage of such information, in accordance with Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission³⁹ and 2015/444⁴⁰.

Article 97

Liability of the Agency

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

³⁹ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission (OJ L 72, 17.3.2015, p.41).

⁴⁰ 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).

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

Article 98

Cooperation with third countries and international organisations

1. The Agency shall be open to the participation of third countries and international organisations that have entered into international agreements with the Union to this effect.
2. Under the relevant provisions of the agreements referred to in paragraph 1 and Article 42, arrangements shall be developed specifying, in particular, the nature, extent and manner in which the third countries concerned will participate in the work of the Agency, including provisions relating to participation in the initiatives undertaken by the Agency, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations. When relevant, they shall also include provisions on the exchange and protection of classified information with third countries and international organisations. Those provisions shall be subject to the Commission's prior approval.
3. The Administrative Board shall adopt a strategy on relations with third countries and international organisations, in the framework of the international agreements referred to in paragraph 1, concerning matters for which the Agency is competent.
4. The Commission shall ensure that, in its relations with third countries and international organisations, the Agency acts within its mandate and the existing institutional framework by concluding an appropriate working arrangement with the Executive Director

Conflicts of interest

1. Members of the Administrative Board and of the Security Accreditation Board, the Executive Director, seconded national experts and observers shall make a declaration of commitments and a declaration of interests indicating the absence or existence of any direct or indirect interests which might be considered prejudicial to their independence. Those declarations shall be accurate and complete. They shall be made in writing upon the entry into service of the persons concerned and shall be renewed annually. They shall be updated whenever necessary, in particular in the event of relevant changes in the personal circumstances of the persons concerned.
2. Before any meeting which they are to attend, members of the Administrative Board and of the Security Accreditation Board, the Executive Director, seconded national experts, observers and external experts participating in ad hoc working groups shall accurately and completely declare the absence or existence of any interest which might be considered prejudicial to their independence in relation to any items on the agenda, and shall abstain from participating in the discussion of and voting upon such points.
3. The Administrative Board and the Security Accreditation Board shall lay down, in their rules of procedure, the practical arrangements for the rules on declaration of interest referred to in paragraphs 1 and 2 and for the prevention and management of conflicts of interest.

TITLE X

PROGRAMMING, MONITORING, EVALUATION AND CONTROL

Article 100

Work programme

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

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

Article 101

Monitoring and reporting

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

Article 102

Evaluation

1. The Commission shall carry out evaluations of the Programme in a timely manner to feed into the decision-making process.
2. By 30 June 2024, and every four years thereafter, the Commission shall evaluate the implementation of the programme.
3. [...]
4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.
5. The entities involved in the implementation of this Regulation shall provide to the Commission the data and information necessary for the evaluation referred to in the first paragraph.
6. By 30 June 2024, and every four years thereafter, the Commission shall assess the Agency's performance, in relation to its objectives, mandate and tasks, in accordance with Commission guidelines. The evaluation shall, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification. It shall also address the Agency's policy on conflicts of interest and the independence and autonomy of the Security Accreditation Board.

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

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

Article 103

Audits

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

Article 104

Personal data and privacy protection

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

TITLE XI

DELEGATION AND IMPLEMENTING MEASURES

Article 105

Exercise of the delegation

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

Article 106

Urgency procedure

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

Article 107

Committee procedure

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

The Committee shall meet in specific different configurations as follows:

- a) Galileo and EGNOS;
- b) Copernicus;
- c) SSA;
- d) Govsatcom,

- e) Security configuration: all security aspects of the Programme, without prejudice to the role of the SAB. Representatives of the Council, EEAS, ESA and the Agency may be invited to participate as observers.⁴¹.
 - f) Horizontal configuration: Strategic overview of the implementation of the programme, coherence across the different components of the programme, cross-cutting measures and budget reallocation as referred to in Article 11;
- 1a. The Programme Committee shall, in accordance with its rules of procedure, set up the "User Forum", as a working group to advise the Programme Committee on user requirements aspects, evolution of the services and user uptake. The User Forum shall aim to guarantee a continuous and effective involvement of users and meet in specific configurations for each component of the programme.
 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.

Where the committee delivers no opinion on the draft implementing act referred to in Article 34(1), the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

⁴¹ A declaration of the Council and the Commission on the implementation of Article 107 in respect of the security aspects of the programme should be added to the Regulation and could be drafted as follows: "The Council and the Commission emphasise that, due to the sensitivity of the security aspects of the programme and in accordance with Article 3(4) and Article 6(2) of Regulation (EU) No 182/2011, it is particularly important that the chair of the Programme Committee meeting in the Security configuration makes every effort to find solutions which command the widest possible support within the committee or the appeal committee when considering the adoption of draft implementing acts concerning the security aspects of the programme."

TITLE XII

TRANSITIONAL AND FINAL PROVISIONS

Article 108

Information, communication and publicity

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

Article 109

Repeals

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

Article 110

Transitional provisions and continuity of services after 2027

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

Article 111

Entry into force and application

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

[It shall apply from 1st January 2021.]

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

ANNEX

KEY INDICATORS⁴²

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

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

Specific Objective referred to in Article 4(2)(a);

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

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

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

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

⁴² The following Recital has to be added: "The use of Copernicus and Galileo based services is predicted to have a major impact in the European economy in general. However, ad hoc measurements and case studies seem to dominate the picture today. The Commission should work with Eurostat in order to define relevant statistical measurements and indicators that would form the basis for monitoring the impact of the EU space activities in a systematic and authoritative way."

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

Specific Objective referred to in Article 4(2)(b):

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

Indicator 1a: Where applicable, number of activations of Copernicus Services requested and/or served

Indicator 1b: EU User satisfaction with respect to Copernicus Services and DIAS

Indicator 1c: Reliability, ~~and~~ availability, **and continuity** of the Copernicus Services and Copernicus data stream

Indicator 2: Number of ~~new~~ information products delivered in the portfolio of each Copernicus Service

Indicator 3: Amount of data generated by the Sentinels.

Specific Objective referred to in Article 4(2)(c)

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

Indicator 2: Availability of services

Specific Objective referred to in Article 4(2)(d)

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

Indicator 2: Availability of Services

Specific Objective referred to in Article 4(2)(e)

Indicator 1: Number of launches for the Programme (including numbers by type of launchers)

Specific Objective referred to in Article 4(2)(f)-

Indicator 1: Number and location of space hubs in the Union

Indicator 2: Share of SMEs established in the EU as a proportion of the total value of the contracts relating to the programme

2. The evaluation referred to in Article 102 shall take into account additional elements such as:
- a) Performance of competitors in the areas of navigation and Earth Observation
 - b) User uptake of Galileo and EGNOS services
 - c) Integrity of EGNOS services
 - d) Uptake of Copernicus services by Copernicus core users
 - e) Number of Union or Member State policies exploiting or benefiting from Copernicus
 - f) Analysis of the autonomy of the SST component and of the level of independence of the EU in this area
 - g) State-of-play of networking for NEO activities
 - h) Assessment of Govsatcom capacities as regards user needs as referred to in Articles 68 and 69
 - i) User satisfaction of the SSA and Govsatcom services**
 - ij) Share of Ariane and Vega launches in the total market based on publicly available data

- j **k**) Development of the downstream sector measured, when available, by the number of new companies using EU space data, information and services, jobs created and turnover, by Member State, **using Eurostat surveys when available**.
- k **l**) Development of the EU Space upstream sector measured, when available, by number of jobs created and turnover by Member **State and the global market share of European space industry, using Eurostat surveys when available**.
- ~~l) — Share of SMEs established in the EU in the contracts relating to the programme~~
-