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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Secure Connectivity Programme for the period 2023-2027

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Delegations will find in the Annex the Presidency draft compromise proposal in view of the meeting of 16 May.

Delegations are informed that changes in the articles (recitals unchanged) as compared to doc. 8212/22 are marked in **bold/underlined** and ~~strikethrough~~.

It is understood that all delegations have entered a scrutiny reservation.

**Proposal for a**  
**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**establishing the Union Secure Connectivity Programme for the period 2023-2027**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 189(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

~~(1)~~ — *[Deleted]*

- (2) The conclusions of the European Council of 19-20 December 2013 welcomed the preparations for the next generation of ~~G~~overnmental ~~S~~satellite ~~C~~ommunications through a close cooperation between the Member States, the Commission and the European Space Agency (ESA). Governmental ~~sateo~~m **satellite communications** has also been identified as one of the elements of the Global Strategy for the European Union's Foreign and Security Policy of June 2016. Governmental ~~sateo~~m **satellite communications** is to contribute to the EU response to Hybrid Threats and provide support to the EU Maritime Security Strategy and to the ~~Union~~ **EU** Arctic policy.

- (3) On 22 March 2017 the Council Political and Security Committee endorsed High Level Civil Military User Needs for Governmental Satellite Communications<sup>1</sup> which were prepared by the European External Action Service ('EEAS') on the military user's requirements identified by the European Defence Agency in its Common Staff Target adopted in 2014 and the civilian user needs collected by the Commission have been merged to produce the High Level Civil Military User Needs for Governmental Satellite Communications.
- (3a) The conclusions of the European Council of 21-22 March 2019 stressed that the Union needs to go further in developing a competitive, secure, inclusive and ethical digital economy with world-class connectivity.
- (3b) The Commission's 'Action Plan on synergies between civil, defence and space industries' of 22 February 2021, states that it aims to 'enable access to high-speed connectivity for everyone in Europe, and provide a resilient connectivity system allowing Europe to remain connected whatever happens'<sup>2</sup>.
- (3c) The Strategic Compass<sup>3</sup> for security and defence adopted **by the Council** on 21 March 2022 recognises that the space infrastructure of the Union and its Member States contributes to our resilience and offers key services that substitute or complement ground infrastructures for **telecommunication, and proposes that EU space systems should** ~~earth observation, satellite navigation or telecommunication.~~ It therefore calls for the Union to offer global connectivity to security and defence **users. It therefore calls for the Union** ~~actors and to~~ work on the proposal for an EU space-based global secure communication system.

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<sup>1</sup> CSDP/PSDC 152, CFSP/PESC 274, COPS 103.

<sup>2</sup> COM(2021) 70 final.

<sup>3</sup> 7371/22.

- (4) **On 28 April 2021** ~~the EU Union~~ adopted the GOVSATCOM component of Regulation (EU) 2021/696 **of the European Parliament and of the Council<sup>4</sup> establishing the Union Space Programme.** ~~on 28 April 2021,~~ **One of the components of the Union Space Programme is GOVSATCOM, which was adopted** to ensure the long-term availability of reliable, secure and cost-effective satellite communications services for GOVSATCOM users. Regulation (EU) 2021/696 envisages that in a first phase, of the GOVSATCOM component, until approximately 2025, existing capacity would be used. In that context, the Commission is to procure GOVSATCOM capacities from Member States with national systems and space capacities and from commercial satellite communication or service providers, taking into account the essential security interests of the Union. In that first phase, GOVSATCOM services are to be introduced by a step-by-step approach. It is also based on the premise that if in the course of the first phase a detailed analysis of future supply and demand reveals that this approach was insufficient to cover the evolving demand, **it** will be necessary to move to a second phase and develop additional bespoke space infrastructure or capacities through cooperation with the private sector, e.g. with Union satellite operators.

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<sup>4</sup> **Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69).**

(5) An analysis of governmental satellite communications user needs, in particular on critical infrastructure, surveillance, external actions and crisis management, has been carried out and shows ~~It is now clear that the Union's current satellite communication,~~ based on capacities from Member States with national systems as well as private sector, ~~offer~~ assets cannot meet new needs of the governmental demand ~~users~~ who are moving towards higher security solutions, low latency and global coverage. ~~Although~~ Recent technical progress has allowed non-geostationary-orbit (NGSO) communications constellations to emerge and gradually offer high-speed and low latency connectivity services. There is therefore a window of opportunity for addressing the evolving needs of the governmental users by developing and deploying additional infrastructure, ~~as filings for the frequencies necessary to provide the required services are currently available within the European Union. If not used, these filings will become obsolete and be attributed to other players. As frequencies are an increasingly scarce resource, the EU~~ should seize ~~may not get~~ this opportunity ~~again~~.

(6)—[Deleted]

(7)—[Deleted]

(7a) There is a growing demand by the Union governmental actors for secure and reliable space-based satellite communication services, particularly because they are the ~~only~~ most viable option in situations where ground-based communication systems are non-existent, disrupted or unreliable. Affordable and cost-effective access to satellite-based communication is also indispensable in areas where terrestrial networks are absent, including in remote regions and in the high seas and airspace or where local networks have been destroyed due to natural disasters or conflicts, or they cannot be trusted in crisis situations.

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

(9)—[Deleted]

- (10) Therefore, it is important to establish a new Union Secure Connectivity Programme ('the Programme') to provide for a Union satellite based communication infrastructure **for governmental use**, while integrating existing and future national and European capacities in the frame of the GOVSATCOM component of the Union Space Programme, and developing further **and integrating** the European Quantum Communication Infrastructure (EuroQCI) initiative.
- (11) The Programme should ensure the long-term provision and availability of worldwide uninterrupted access to secure and cost-effective satellite communication services, supporting the protection of critical infrastructure, surveillance, external actions, crisis management, as well as applications that are critical for Member States' economy, security and defence, through a dedicated governmental infrastructure **while integrating the capacities of GOVSATCOM**. The Programme should meet the new governmental needs for higher security solutions, low latency and global coverage. **The services enabled by the Programme should provide connectivity over strategic geographical areas, such as Africa, Mediterranean, Middle East Asia, Arctic and Atlantic in line with policy documents such as the High Level Civil Military User Needs and the Global Gateway strategy**<sup>5</sup>. ~~At the same time~~ **Furthermore**, the Programme should allow for the provision of commercial services by the **European** private sector through a commercial infrastructure that can enable access to advanced, reliable and fast connections to citizens and businesses ~~across the EU~~ **including, but not limited to, availability of high-speed broadband and seamless connectivity, removing communication dead zones and increasing cohesion across Member State territories and EU outermost regions, including rural, peripheral, remote and isolated areas and islands where deployment of broadband-fibre would be too expensive and connectivity could only be achieved with satellite infrastructure.**

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<sup>5</sup> JOIN(2021) 30 final.

- (11a) The Programme implementation should **complement GOVSATCOM and** start with the **definition,** development, ~~and validation~~ **and deployment activities** actions for the construction of the space and ground infrastructure required to provide **the** first governmental services. The Programme should then entail **gradual** deployment activities aimed at completing both the space and ground infrastructure required for the provision of ~~governmental services to provide~~ advanced governmental services, which are currently not available and beyond the state-of-the-art of existing European satellite communication services. The provision of governmental services, the operation, maintenance and continuous improvement of the infrastructure, once deployed, as well as the development of the future generations of the governmental services should be part of the exploitation activities. The exploitation activities should begin as soon as possible with the provision of the first set of governmental services aimed by 2024 to meet ~~as soon as possible~~ the evolving needs of the governmental users. **The first governmental services should be gradually improved with the aim of reaching full operational capability by 2027.**
- (12) Since June 2019, Member States have signed the ~~European Quantum Communication Infrastructure (EuroQCI)~~ Declaration, agreeing to work together, with the Commission and with the support of ESA, towards the development of a quantum communication infrastructure covering the whole EU. According to that Declaration, EuroQCI aims at deploying a certified secure end-to-end quantum communication infrastructure, enabling information and data to be transmitted and stored and capable of linking critical public communication assets all over the Union. The Programme will contribute to meet the objectives of the EuroQCI Declaration by developing a EuroQCI space and ground infrastructure integrated into the governmental infrastructure of the Programme **as well as by developing and deploying the EuroQCI terrestrial infrastructure, which will be owned by the Member States.** The EuroQCI space, **ground and terrestrial** infrastructure should be developed in the Programme in two main phases, a preliminary validation phase, **which may involve the development and validation of several different technologies and communication protocols,** and a full deployment phase including appropriate solutions for inter-satellite connectivity and data relay between satellites, ~~and the ground~~ **and the terrestrial infrastructure.** ~~The terrestrial infrastructure of EuroQCI owned by the Member States should not be part of the EuroQCI ground infrastructure.~~

(13) ~~[Deleted]~~

- (14) In order to expand the Union satellite communication capacities, the Programme infrastructure should integrate the infrastructure developed for the purposes of the GOVSATCOM component of the Union Space Programme. In particular, the Programme's ground infrastructure should encompass the GOVSATCOM Hubs and other ground segment assets. ~~It should be designed on the basis of operational and security requirements.~~
- (15) ~~[Deleted]~~
- (16) The Programme ~~system could~~ **may** increase the capacity and services of the components of the Union Space Programme, enabling thereby the development of additional ~~missions~~ **non-communication services to be decided** under the conditions set out in Regulation (EU) 2021/696 **and implemented under the conditions set out in this Regulation. If the benefit to the Union Space Programme components is duly established, taking into account user needs and budgetary constraints,** ~~it~~ could offer alternative positioning, navigation and timing services complementing Galileo, ensure the broadcast of EGNOS/SBAS messages with a lower latency, provide space based sensors for space surveillance and support enhancement of current Copernicus capabilities in particular for emergency and civil security services.
- (16a) Considering the importance for the Programme of its ground governmental infrastructure and the impact thereof on its security, the location of such infrastructure should be determined by the Commission. The deployment of the ground governmental infrastructure of the Programme should ~~continue to~~ follow an open and transparent process, which could involve the **European Union Agency for the Space Programme ('the Agency')** or the European Space Agency where appropriate based on its field of competence.
- (17) The space assets of the governmental infrastructure should be **launched** ~~deployed with launch~~ service providers that can ensure the security and integrity of the governmental services and, where possible, from the territory of the Member States, in order to protect the security interests of the Union and its Member States. **Furthermore, small launchers and microlaunchers are able to provide additional flexibility to allow for a rapid deployment of the space assets.**



- (18) It is important that the Union owns all tangible and intangible assets related to governmental infrastructure while ensuring the respect of the Charter of Fundamental Rights of the European Union, including its Article 17. Despite the ownership by the Union of those assets, it should be possible for the Union, in accordance with this Regulation and, where it is deemed appropriate on a case-by-case assessment, to make those assets available to third parties or to dispose of them.
- (18a) The Programme should maximise the use of innovative and disruptive technologies as well as novel business models developed by New Space, in particular by small and medium-sized enterprises and start-ups that develop market-driven novel space technologies and applications, covering several aspects of the value chain.
- (18b) To ensure the competitiveness of the European space industry in the future, the Programme ~~may~~ **should** contribute to the development of advanced skills in space-related fields and support education and training activities, promoting equal opportunities, gender equality and women's empowerment, in order to realise the full potential of Union citizens in that area.
- (19) The Programme should provide services aimed at meeting the needs of the governmental users and at reducing the vulnerabilities of critical infrastructure. The High Level Civil Military User Needs for Governmental Satellite Communications<sup>6</sup>, which was endorsed by the Council Security Committee in March 2017, identified three pillars of governmental services use-cases: surveillance, crisis management and connection and protection of key infrastructures.
- (19a) In principle, the governmental services **based on the governmental infrastructure** should be provided free of charge to **governmental** users ~~of the governmental services~~. If, after analysis, the Commission concludes that there is a shortage of capacities ~~or a need for service prioritisation~~, it should be permitted to develop a pricing policy in duly justified cases and on an exceptional basis **where demand exceeds the access capacity** as part of those detailed rules on the service provision in order to avoid a distortion of the market. The Commission should be conferred with implementing powers to adopt such pricing policy. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

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<sup>6</sup> EEAS(2017) 359.

- (20) The service portfolio should establish the applicable baseline for the governmental services. The service portfolio for the governmental services should ~~take into account~~ **define the categories of services which complement** the service portfolio of the GOVSATCOM services established within the framework of Regulation (EU) 2021/696. The Commission should also ensure the consistency and coherence of operational and security requirements between GOVSATCOM and ~~this~~ **the** Programme. In order to maintain the best possible match between the demand and supplied services, the service portfolio for governmental services should be regularly updated, based on those operational and security requirements.
- (21) Satellite communications is a finite resource limited by the satellite capacity, frequency and geographical coverage. Hence, in order to be cost-effective and to capitalise on economies of scale, the Programme should optimise the match between the supply and demand of the governmental services and to avoid overcapacity. Since the demand and the potential supply both change over time, the Commission should monitor the needs to adjust the portfolio for the governmental services whenever this appears necessary.
- ~~(22) The Programme should also allow for the provision of commercial services by the European private sector including, but not limited to, availability of high-speed broadband and seamless connectivity throughout Europe, removing communication dead zones and increasing cohesion across Member State territories, including rural, peripheral, remote and isolated areas and islands. The services enabled by the Programme provide connectivity over strategic geographical areas, such as Africa, Mediterranean, Middle East Asia, Arctic and Atlantic in line with policy documents such as the High Level Civil Military User Needs and the Global Gateway strategy<sup>7</sup>. [Moved to recital (11)]~~
- (23) Member States, the Council, the Commission and the EEAS, as well as Union agencies and bodies should be able to become the Programme participants, insofar as they choose to authorise users of governmental services or provide capacities, sites or facilities. Taking into consideration that it is for the Member States to decide whether to authorise national users of governmental services, Member States should not be obliged to become Programme participants or to host Programme infrastructure.

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<sup>7</sup> JOIN(2021) 30 final.

- (24) Each Programme participant should designate a Secure Connectivity Competent Authority to monitor whether users, and other national entities that play a role in the Programme, comply with the applicable rules and security procedures as laid down in the security requirements, unless it has already designated a GOVSATCOM Competent Authority.
- (25) This Regulation lays down a financial envelope, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>8</sup>, for the European Parliament and the Council during the annual budgetary procedure.

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<sup>8</sup> OJ L 433 I, 22.12.2020, p. 28.

- (26) The Programme objectives are coherent and complementary with those of other Union programmes, particularly Horizon Europe established by Regulation (EU) 2021/695 of the European Parliament and of the Council<sup>9</sup>, the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council<sup>10</sup>, the Neighbourhood, Development and International Cooperation Instrument – Global Europe established by Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>11</sup>, the Connecting Europe Facility established by Regulation (EU) 2021/1153 of the European Parliament and of the Council<sup>12</sup> and, in particular, the Union Space Programme established by Regulation (EU) 2021/696 of the European Parliament and of the Council<sup>13</sup>.

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<sup>9</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

<sup>10</sup> Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1).

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

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

<sup>13</sup> Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69).

- (27) The Horizon Europe Programme will allocate a dedicated share of its Cluster 4 components to R&I activities related to development and validation of the secure connectivity system, including for the potential technologies that would be developed under New Space. The Neighbourhood, Development and International Cooperation Instrument (NDICI) will allocate a dedicated share of its Global Europe funds for activities related to the operation of the system and the worldwide provision of services that will allow to offer an array of services to international partners. The Union Space Programme will allocate a dedicated share of its GOVSATCOM component for the activities related to the development of the GOVSATCOM Hub which will form part of the ground infrastructure of the Secure Connectivity system. The funding stemming from these programmes should be implemented in accordance with the rules of these programmes. Since those rules may differ significantly from the rules under this Regulation, the need to achieve effectively the intended policy objectives should be taken into account when deciding to finance actions from both the allocated funds from Horizon Europe and NDICI and from the Union Secure Connectivity Programme.
- (28) Due to its inherent implications on the security of the Union and its Member States, the Programme also shares objectives and principles with the European Defence Fund established by Regulation (EU) 2021/697 of the European Parliament and of the Council<sup>14</sup>. Therefore, part of the funding from that Programme should be provided to fund the activities under this Programme, particularly the actions related to the deployment of its infrastructure.

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<sup>14</sup> Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (OJ L 170, 12.5.2021, p. 149).

- (29) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>15</sup> (the ‘Financial Regulation’) applies to the Programme. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.
- (30) In accordance with Article 191(3) of the Financial Regulation, in no circumstances are the same costs to be financed twice by the Union budget.
- (31) The Commission should be able to have recourse, as required and insofar as necessary, to the technical assistance of certain external parties, **insofar as the Union security interests are preserved**. Other entities involved in the public governance of the Programme should also be able to make use of the same technical assistance in performing tasks entrusted to them under this Regulation.
- ~~(32) Horizontal financial rules adopted by the European Parliament and by the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (‘TFEU’) apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget. [see recital 29]~~
- (33) Procurement contracts concluded under the Programme for activities financed by the Programme should comply with Union rules. In that context, the Union should also be responsible for defining the objectives to be pursued as regards public procurement.
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<sup>15</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(35) In order to meet the objectives of the Programme, it is important to be able to call, where appropriate, on capacities offered by Union public and private entities active in the space domain and also to be able to work at international level with third countries or international organisations. For that reason, it is necessary to provide for the possibility to use all the relevant tools and management methods provided for by the TFEU and the Financial Regulation and joint procurement procedures.

(36) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>16</sup> and Council Regulations (EC, Euratom) No 2988/95<sup>17</sup>, (Euratom, EC) No 2185/96<sup>18</sup> and (EU) 2017/1939<sup>19</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities including fraud, the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013 the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>20</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

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<sup>16</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L 248, 18.9.2013, p. 1).

<sup>17</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).

<sup>18</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>19</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

<sup>20</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).



- (37) In order to ensure the protection of the financial interests of the Union, it is necessary to require third countries to grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.
- (38) A public-private cooperation partnership is the most appropriate scheme to ensure that the objectives of the Programme could be pursued. It would permit to build upon the existing EU satellite communication technological and infrastructural base, including private assets, and to provide robust and innovative governmental services, while allowing the private partner to complement the Programme infrastructure with additional capabilities to offer commercial services on market conditions through additional own investments. Such a scheme would furthermore optimise deployment and operation costs by sharing development and deployment costs on subsystems common to both governmental and commercial infrastructures, as well as operational costs by allowing a high level of capacity mutualisation. It would stimulate innovation in particular for New Space companies by enabling the sharing of Research and Development risks between public and private partners.
- (39) For implementation of the Programme, the concession, supply, service, works or mixed contracts should establish a clear distribution of tasks and responsibilities between the public and private partners and include adequate safeguards to avoid any overcompensation of the private partner for the provision of governmental services, or potential distortions of competition stemming from the provision of commercial services. Such safeguards could include separation of accounts between governmental and commercial services, fair, reasonable and non-discriminatory access to infrastructure necessary for the provision of commercial services. The contracts should allow the provision of commercial services by the private sector and ensure an appropriate prioritisation of governmental user needs. The contracts should foster the participation of start-ups and SMEs along the whole value and across Member States.

- (39a) The contracts procured under this programme should ensure that the technology deployed enables the highest possible standards when it comes to sustainability as well as energy and resource efficiency. An accessible infrastructure is a crucial factor in the green and digital transition of our society.
- (39b) An important objective of the Programme is to ensure the security of the Union and the Member States and to strengthen the resilience across key technologies and value chains **while preserving an open economy**. In specific cases, that objective requires conditions for eligibility and participation to be set, to ensure the protection of the integrity, security and resilience of the operational systems of the Union. That should not undermine the need for competitiveness and cost-effectiveness.
- (40) Sound public governance of the Programme requires the clear distribution of responsibilities and tasks among the different actors involved to avoid unnecessary overlap and reduce cost overruns and delays. All the actors of the governance should support, in their field of competence and in accordance with their responsibilities, the achievement of the objectives of the Programme.
- (41) Member States have long been active in the field of space. They have systems, infrastructure, national agencies and bodies linked to space. They are therefore able to make a major contribution to the Programme, especially in its implementation. They might cooperate with the Union to promote the Programme's services and applications and ensure coherence between the relevant national initiatives and the Programme. The Commission might be able to mobilise the means at Member States' disposal, benefit from their assistance and, subject to mutually agreed conditions, entrust the Member States with tasks in the implementation of the Programme. Moreover, the Member States should take all necessary measures to ensure the protection of the ground infrastructure located on their territories. In addition, Member States should ensure that the frequencies necessary for the Programme are available and protected at the adequate level to allow for the full development and implementation of applications based on the services offered, in compliance with Decision No 243/2012/EU of the European Parliament and of the Council<sup>21</sup>.

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<sup>21</sup> Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

(42) In accordance with Article 17 of the Treaty on European Union ('TEU') and as a promoter of the Union's general interest, it is the Commission's responsibility to implement the Programme, assume overall responsibility and promote its use. In order to optimise the resources and competences of the various stakeholders, the Commission should be able to entrust certain tasks to other entities under justifiable circumstances. ~~Having the overall responsibility for the Programme, t~~The Commission should determine the main technical and operational requirements necessary to implement systems and services evolution. It should do so after having consulted Member States' experts, users and other relevant **public or private** stakeholders. Finally, in accordance with Article 4(3) TFEU, the exercise of competence by the Union does not result in Member States being prevented from exercising their competences. However, to make good use of the Union funds, it is appropriate that the Commission ensures, as far as possible, the coherence of activities performed in the context of the Programme, with those of the Member States, **without creating any unnecessary duplication of effort.**

(42a) Article 154 of the Financial Regulation provides that, on the basis of the results of an ex-ante assessment, the Commission is to be able to rely on the systems and the procedures of the persons or entities entrusted with the implementation of Union funds. If necessary, specific adjustments to those systems and procedures ('supervisory measures'), as well as the arrangements for the existing contracts, should be defined in the corresponding contribution agreement.

(42b) Given its worldwide coverage, the Programme has a strong international dimension. International partners, their governments and citizens will be recipients of the Programme's array of services with accrued benefits to the international cooperation of the Union and the Member States with these partners. For matters relating to the Programme, the Commission might coordinate, on behalf of the Union and in its field of competence, the activities on the international scene.

- (43) ~~The mission of the European Union Agency for the Space Programme ('the Agency') is to contribute to the Programme, particularly as regards security accreditation. Certain tasks linked to those areas should therefore be entrusted to the Agency.~~ In relation to security in particular, and given its experience in this area, the Agency should be responsible, **through its Security Accreditation Body**, for the security accreditation of the governmental services and infrastructure. Furthermore, the Agency should perform the tasks ~~which~~ **entrusted by** the Commission ~~confers on it~~. When entrusting tasks to the Agency, adequate human, administrative and financial resources should be made available.
- (44) Building on the expertise developed in the past years in management, operation and service provision related to the Galileo and EGNOS components of the Union Space Programme, the Agency is the most appropriate body to implement, under the supervision of the Commission, ~~all the~~ tasks relating to the operation of the governmental infrastructure and provision of governmental services. The Agency should therefore be entrusted with the provision of governmental services and ~~may~~ **should be able to** be entrusted with all or part of the operational **management** of the governmental infrastructure.
- (45) In order to ensure the operation of the governmental infrastructure and facilitate the provision of the governmental services, the Agency should be allowed to entrust, by means of contribution agreements, specific activities to other entities, in areas of their respective competence, under the conditions of indirect management applying to the Commission.
- (46) ESA is an international organisation with extensive expertise in the space domain including in satellite communication and is therefore an important partner in the implementation of the different aspects of the Union's space policy. In that regard, ESA should be able to provide ~~technical~~ expertise to the Commission, including for the preparation **and implementation** of the technical aspects of the Programme. To this purpose, ESA ~~may~~ **should be able to** be entrusted with the supervision of the development and validation activities of the Programme, and support the evaluation of the contracts concluded in the context of the implementation of the Programme.

- (47) Owing to the importance of space-related activities for the Union economy and the lives of Union citizens, achieving and maintaining a high degree of security should be a key priority for the Programme, particularly in order to safeguard the interests of the Union and of the Member States, including in relation to classified and sensitive non-classified information.
- (48) Under Article 17 TEU, the Commission is responsible of the management of programmes which, in accordance with rules set out in the Financial Regulation, may be sub-delegated to third parties, in indirect management. In that context, the Commission must ensure that the tasks performed by third parties to implement the Programme in indirect management do not undermine the security of the Programme in particular as regards to the control of classified information. It should therefore be clarified that where the Commission entrusts ESA to carry out tasks under the Programme, the corresponding contribution agreements must ensure that classified information generated by ESA is considered as EU classified information ('EUCI') in accordance with Commission Decision (EU, Euratom) 2015/444<sup>22</sup> and Council Decision 2013/488/EU<sup>23</sup> created under the authority of the Commission.
- (49) Without prejudice to Member States' prerogatives in the area of national security, the Commission and the High Representative, each within their respective area of competence, should ensure the security of the Programme in accordance with this Regulation and, where relevant, Council Decision (CFSP) 2021/698<sup>24</sup>.
- (50) Given the specific expertise of the EEAS and its regular contact with authorities of third countries and international organisations, the EEAS should be able to assist the Commission in performing certain tasks relating to the security of the Programme in the field of external relations, in accordance with Council Decision 2010/427/EU<sup>25</sup>.

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<sup>22</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

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

<sup>24</sup> Council Decision (CFSP) 2021/698 of 30 April 2021 on the security of systems and services deployed, operated and used under the Union Space Programme which may affect the security of the Union, and repealing Decision 2014/496/CFSP (OJ L 170, 12.5.2021, p. 178).

<sup>25</sup> Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (2010/427/EU) (OJ L 201, 3.8.2010, p. 30).

- (51) Without prejudice to the sole responsibility of the Member States in the area of national security, as provided for in Article 4(2) TEU, and to the right of the Member States to protect their essential security interests in accordance with Article 346 TFEU, a specific governance of security should be established to ensure a smooth implementation of the Programme. That governance should be based on three key principles. Firstly, it is imperative that Member States' extensive, unique experience in security matters be taken into consideration to the greatest possible extent. Secondly, in order to prevent conflicts of interest and any shortcomings in applying security rules, operational functions should be segregated from security accreditation functions. Thirdly, the entity in charge of managing all or part of the Programme's infrastructure is also the best placed to manage the security of the tasks entrusted to it. The security of the Programme would build upon the experience gained in the implementation of the Union Space Programme over the past years. Sound security governance also requires that roles be appropriately distributed among the various players. As it is responsible for the Programme, the Commission, without prejudice to Member States prerogatives in the area of national security, should determine together with the Member States the general security requirements applicable to the Programme.
- (52) The cybersecurity of the Programme infrastructure, both ground and space as well as its physical redundancy, is key to ensuring the continuity of the service and the operations of the system. The need to protect the system and its services against cyberattacks, including by making use of new technologies and to support response to and recovery from such cyberattacks, should therefore be duly taken into account when establishing security requirements.
- (53) Where appropriate, after the risk and threat analysis, the Commission should identify a security monitoring structure. That security monitoring structure should be the entity responding to instructions developed under the scope of Decision (CFSP) 2021/698.

- (54) The governmental services provided by the Programme will be used by the Union's governmental actors in security, defence, safety critical missions and operations as well as protection of critical infrastructure. Therefore, such services and infrastructure should be subject to security accreditation.
- (55) It is indispensable that security accreditation activities be carried out on the basis of collective responsibility for the security of the Union and its Member States, by endeavouring to build consensus and involving all those concerned with the issue of security, and that a procedure for permanent risk monitoring be put in place. It is also necessary that technical security accreditation activities are conducted by professionals who are duly qualified in the field of accreditation of complex systems and who have an adequate level of security clearance.
- ~~(56)~~—[Deleted]
- ~~(57)~~—[Deleted]
- (58) The Programme's governmental services ~~will~~ **would also** be used in security and safety critical missions and operations by Union and Member State actors. Therefore, in order to protect the essential security interest of the Union and its Member States, measures to ensure a necessary level of non-dependence on third parties (third countries and entities from third countries) are needed, covering all Programme elements. This ~~may~~ **could** include space and ground technologies at component, subsystem and system level, manufacturing industries, owners and operators of space systems, and physical location of ground system components.
- ~~(59)~~—[Deleted]
- ~~(60)~~—[Deleted]

- (61) Members of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA), acceding countries, candidate countries and potential candidates as well as the European Neighbourhood Policy countries and other third countries may be allowed to participate in the Programme only on the basis of an agreement to be concluded in accordance with Article 218 TFEU.
- (62) Pursuant to Council Decision 2013/755/EU<sup>26</sup>, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (63) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to adoption of the operational requirements for governmental services, the service portfolio for governmental services, as well as the establishment of additional requirements for the participation of third countries and international organisations in the Programme, and the location of the centres belonging to the ground governmental infrastructure. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>27</sup>. For the selection of such locations, the Commission should be able to take into account the operational and security requirements, as well as the existing infrastructure.

~~(64)~~—[Deleted]

~~(65)~~—[Deleted]

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<sup>26</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

<sup>27</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).



- (66) In the interest of sound public governance and given the synergies between this Programme and the **GOVSATCOM component of the** Union Space Programme, ~~and in particular to ensure appropriate synergies with the GOVSATCOM component~~, the Programme committee established within the framework of Regulation (EU) 2021/696 in the GOVSATCOM configuration should also serve as the committee for the purposes of this Programme. For matters pertaining to the security of the Programme, the Programme committee should meet in a dedicated security configuration.
- (67) As sound public governance requires uniform management of the Programme, faster decision-making and equal access to information, representatives of the entities entrusted with tasks related to the Programme might be able to take part as observers in the work of the Programme committee established in application of Regulation (EU) No 182/2011. For the same reasons, representatives of third countries and international organisations who have concluded an international agreement with the Union, relating to the Programme, might be able to take part in the work of the Programme committee subject to security constraints and as provided for in the terms of such agreement. The representatives of entities entrusted with tasks related to the Programme, third countries and international organisations should not be entitled to take part in the Programme committee voting procedures. The conditions for the participation of observers and ad hoc participants should be laid down in the rules of procedure of the Programme committee.
- (68) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>28</sup>, this Programme should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Programme. The evaluation of this Programme should take into account the findings of the evaluation of the Union Space Programme pertaining to the GOVSATCOM component conducted within the framework of Regulation (EU) 2021/696.

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

- (69) In order to ensure the continuing adequacy of the indicators to report on the progress of the Programme, as well as the Programme's monitoring and evaluation framework, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the Annex to this Regulation with regard to the indicators, as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, which may consider inter alia, the end user uptake and impacts on the internal market. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (70) In order to ensure uniform conditions for the implementation of the Programme's security requirements, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. Member States should be able to exert a maximum of control over the Programme's security requirements. When adopting implementing acts in the area of security of the Programme, the Commission should be assisted by the Programme committee meeting in a dedicated security configuration. In view of the sensitivity of security matters, the chair of the Programme committee should endeavour to find solutions which command the widest possible support within the committee. The Commission should not adopt implementing acts determining the general security requirements of the Programme in cases where no opinion is delivered by the Programme committee.
- (71) Since the objective of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the action that go beyond the financial and technical capacities of any single Member State, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

## Chapter I

### General provisions

#### Article 1

#### Subject matter

This Regulation establishes the Union Secure Connectivity Programme ('the Programme') for the ~~duration~~ **period** 2023-2027. It lays down the objectives of the Programme, the budget for the period 2023-2027, the forms of Union funding and the rules for providing such funding, as well as the rules for the implementation of the Programme.

#### Article 2

#### Definitions

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

~~(1)~~—[Deleted]

(2) 'European Quantum Communication Infrastructure (EuroQCI)' means an interconnected space, ~~and~~ ground **and terrestrial** infrastructure integrated to the infrastructure of the Programme using quantum-based technology;

(3) 'GOVSATCOM Hub' ~~shall have the meaning~~ **means GOVSATCOM Hub as** defined in Article 2(23) of Regulation (EU) 2021/696;

~~(4)~~—[Deleted]

~~(5)~~—[Deleted]

~~(6)~~—[Deleted]

(7) '**P**ayload' means equipment carried by a spacecraft for the performance of a particular mission in space;

~~(8) ‘Secure connectivity system’ means the space-based system developed in accordance with this Regulation comprising the infrastructure referred to in Article 5 and providing the services referred to in Article 7;~~

(9) ‘The Agency’ means the European Union Agency for the Space Programme established by Regulation (EU) 2021/696;<sup>29</sup>

**(10) ‘spacecraft’ means spacecraft as defined in Article 2(1) of Regulation (EU) 2021/696;**

**(11) ‘blending operations’ means blending operations as defined in Article 2(27) of Regulation (EU) 2021/696.**

### *Article 3*

#### **Programme objectives**

1. The general objectives of the Programme are:

~~(a) to establish a secure connectivity system under civil control by developing, building and operating a multi-orbital connectivity infrastructure, scalable to adjust to the evolution of governmental demand for satellite communications and offering low latency, while integrating the existing and future capacities used in the frame of the GOVSATCOM component of the Union Space Programme established by Regulation (EU) 2021/696<sup>29</sup>;~~

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<sup>29</sup> Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69).

- (a) **to** ensure the provision and long-term availability of worldwide uninterrupted access to secure, autonomous, reliable and cost-effective satellite communication services to governmental users in accordance with paragraphs 1-a to 2 of Article 7 **by establishing a secure connectivity system under civil control integrating the existing and future capacities of the GOVSATCOM component of the Union Space Programme,** which **It shall** supports **the** protection of critical infrastructures within the meaning of **Council** Directive 2008/114/EC, surveillance, external actions, crisis management and applications that are critical for the economy, environment, security and defence;
- ~~(b) — allow for the provision of commercial services by the private sector in line with applicable Union’s competition law and in accordance with Article 7(4). [Moved to Article 3(3)]~~
- (c) **to allow for the provision of commercial services by the private sector in line with applicable Union’s competition law and in accordance with Article 7(4) in order to facilitate further development of worldwide high-speed broadband and seamless connectivity as well as removing communication dead zones and increasing cohesion across Member States’ territories.**

2. The **specific objectives of the** Programme **are** ~~has the following specific objectives:~~

- (a) improve the resilience of the Union and Member States communication services; ~~and~~
- (aa)** increase ~~its~~ **their** robustness by proactive and reactive defence against cyber and electromagnetic threats and operational cybersecurity; ~~as well as~~
- (ab)** develop and integrate ~~the future space and related ground segment of~~ **EuroQCI** the European Quantum Communication Infrastructure;
- ~~(b) — [Deleted]~~

- (c) **enable, as appropriate, the development of additional non-communication services** ~~to~~ improve and expand, ~~as appropriate,~~ the capabilities and services of components of the Union Space Programme by hosting additional satellite subsystems ~~or~~ **including** payloads;
- (d) incentivise the development of innovative and disruptive technologies and ~~risk-prone~~ **new** business models provided by the New Space ecosystem; and
- (e) ~~facilitate further development of high-speed broadband and seamless connectivity throughout the Union, removing communication dead zones and increasing cohesion across Member State territories, and allow~~ **improve secure** connectivity over strategic geographical areas of **strategic** interest outside of the Union, **such as Africa and the Arctic.**

#### *Article 4*

#### **Activities of the Programme activities**

1. The provision of the governmental services referred to in Article 7(1-a) shall be ensured through the following activities, which complement the GOVSATCOM component of the **Union** Space ~~p~~**Programme**:
  - (a) development, validation and **related** deployment activities of the space and ground infrastructure to provide first governmental services **by 2024**;
  - ~~(b) —[Deleted]~~
  - (c) **gradual** deployment activities to complete the space and ground infrastructure required to provide advanced governmental services **to meet as soon as possible the needs of the governmental users, leading to full operational capability aimed by 2027**;
  - (ca) **development and deployment** ~~integration of the space and related ground segment of~~ **EuroQCI** ~~the European Quantum Communication Infrastructure~~ **for integration** into ~~the infrastructure of the secure connectivity system~~;

- (d) exploitation activities for the provision of governmental services, comprising: the operation, maintenance, continuous improvement and protection of the space and ground infrastructure, including replenishment and obsolescence management;
- (e) development of future generations of the space and ground infrastructure and the evolution of the governmental services.

~~2. The exploitation activities referred to in paragraph 1, point (d), shall begin progressively with the provision of first governmental services by 2024. Those services shall be extended through the gradual deployment of the space and ground infrastructure leading to full operational capability aimed by 2027. [Moved to paragraph 1]~~

~~3. [Deleted]~~

- 4. The provision of the commercial services shall be ensured and **entirely** financed by the contractors referred to in Article 15(2).

## Article 5

### Infrastructure of the secure connectivity system

- 1. The secure connectivity system **shall be established by developing, building and operating a multi-orbital connectivity infrastructure, scalable to adjust to the evolution of governmental demand for satellite communications and offering low latency, while integrating the existing and future capacities used in the frame of the GOVSATCOM component of the Union Space Programme established by Regulation (EU) 2021/696<sup>30</sup>. It shall consist of a governmental infrastructure as laid down in paragraph 2, complemented by a commercial infrastructure as laid down in paragraph 4. [Moved from article 3(1)(-a)]**

<sup>30</sup> Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69).

2. The governmental infrastructure of the secure connectivity system shall include all the related ground and space assets which are required for the provision of the governmental services, as set out in Article 7(1-a), including the following assets:

- (a) either satellites or satellite subsystems, including payloads;
- (b) EuroQCI;
- (c) infrastructure for monitoring the security of the governmental infrastructure and **governmental** services;
- (d) ground infrastructure for the provision of the services to the governmental users, including the GOVSATCOM ground segment infrastructure as set out in Article 67 of Regulation (EU) 2021/696.

(e) — *[Deleted]*

**2a.** The governmental infrastructure shall **also host** ~~support~~, as appropriate, additional subsystems, in particular payloads, that may be used as part of the space-based infrastructure of the components of the Union Space Programme listed in Article 3 of Regulation (EU) 2021/696 under the terms and conditions set out in that Regulation.

3. The Commission shall, by means of implementing acts, lay down, where necessary, measures required to determine the location of the centres belonging to the ground governmental infrastructure, in accordance with security requirements, following an open and transparent process. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2) of this Regulation. The location of the GOVSATCOM Hubs shall be determined in accordance with Article 67(2) of ~~the~~ **Regulation** (EU) 2021/696.

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



Where it is not possible to locate the centre in the territory of the Member States, the Commission may determine the location of such centre in the territory of a third country, subject to a hosting agreement between the Union and the third country concerned concluded in accordance with Article 218 TFEU.

4. The commercial infrastructure referred to in paragraph 1 shall include all space and ground assets other than those being part of the governmental infrastructure. The commercial infrastructure shall be entirely financed by the contractorss referred to in Article 15(2).
5. In order to protect the security interests of the Union, the space assets of the governmental infrastructure shall be **launched** ~~deployed~~ by ~~launch~~ service providers that comply with the conditions set out in Article 19 and, **where possible** ~~except in case of force majeure~~, from the territory of the Member States.

#### *Article 5a*

#### **Ownership and use of assets**

1. The Union shall be the owner of all tangible and intangible assets which form part of the governmental infrastructure **developed in this Programme** as laid down in Article 5(2), **with the exception of the EuroQCI terrestrial infrastructure, which will be owned by the Member States**. To that effect, the Commission shall ensure that contracts, agreements and other arrangements concerning activities that may result in the creation or development of such assets contain provisions ensuring the Union's ownership of those assets.
  - 1a. The Commission shall ensure that the Union has the following rights:
    - (a) the right of use of the frequencies required for the transmission of the signals generated by the system, in accordance with the applicable laws, regulations and relevant licensing agreements, enabled by the relevant filings provided by the Member States, that remain under their responsibility;

- (b) the right to prioritise the provision of the governmental services over the commercial services in case of crisis or force majeure, according to terms and conditions to be established in the contracts referred to in Article 15 and considering the needs of users of the governmental services referred to in Article 10(1).
2. ~~By way of derogation from paragraph 1, the~~ The Commission shall seek to conclude contracts, agreements or other arrangements with third parties with regard to:
- (a) pre-existing ownership rights in respect of tangible and intangible assets forming part of the Programme infrastructure;
- (b) the acquisition of the ownership or license rights in respect of other tangible and intangible assets necessary for the implementation of the Programme.
3. Where the assets referred to in paragraphs 1 and 2 consist of intellectual property rights, the Commission shall manage those rights as effectively as possible, taking into account:
- (a) the need to protect and give value to the assets;
- (b) the legitimate interests of all stakeholders concerned;
- (c) the need to ensure competitive and well-functioning markets and to develop new technologies;
- (d) the need for the continuity of the services provided by the Programme.
4. The Commission shall, whenever appropriate, ensure that the relevant contracts, agreements and other arrangements include the possibility of transferring those intellectual property rights to third parties or of granting third-party licences for those rights, including to the creator of the intellectual property, and that such third parties can freely enjoy those rights where necessary for carrying out their tasks under this Regulation.

## Article 6

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

1. The Programme shall support an innovative and competitive Union space sector ~~in the Union~~, and in particular the initiatives and activities listed in Article 6 of Regulation (EU) 2021/696.
2. The Commission shall stimulate the New Space ecosystem in the Union, throughout the whole duration of the Programme by taking the following measures:
  - (a) establish criteria for the award of the contracts referred to in Article 15 ensuring the widest participation of start-ups and small and medium-sized enterprises (SMEs) from across the Union and along the whole relevant value chain;
  - (b) require that the contractors referred to in Article 15(2) provides a plan on the integration of start-ups and SMEs from across the Union in the activities under the contracts referred to in Article 15;
  - (c) require through the contracts referred to in Article 15 that start-ups, ~~and~~ SMEs **and midcaps** from across the Union are able to deliver own services to end-users.
- 2a. The Commission shall also:
  - (d) promote and encourage stronger participation of women and establish equality and inclusion goals in the tender documentation;
  - (e) contribute to the development of advanced skills in space-related fields and to training activities.

## Chapter II

### Services and participants

#### Article 6a

#### Governmental services

1. Governmental services shall be provided to the Programme participants referred to in Article 9(1), (2) and (3).
2. The Commission shall adopt, by means of implementing acts, detailed rules on the provision of governmental services taking into account Article 66 of the Space Programme Regulation **(EU) 2021/696** and the expected demand for the different use-cases, dynamic allocation of the resources and prioritisation of the governmental services according to relevance and criticality of the users' needs and, where appropriate, the cost-efficiency.
3. ~~Access to~~ The governmental services **referred to in Article 7(1-a)(a) and (c)** shall be free of charge for its **governmental** users.
4. By way of derogation from paragraph 3, the Commission may, in duly justified cases **where demand exceeds the access capacity**, and on an exceptional basis ~~where demand exceeds the access capacity~~, determine, by means of implementing acts, a pricing policy.

By determining this pricing policy, the Commission shall ensure that the provision of the governmental services does not distort competition, that there is no shortage of the governmental services and that the price identified will not result in an overcompensation of the **contractors** beneficiary.

5. The implementing acts referred to in paragraphs 2 and 4 of this Article shall be adopted in accordance with the examination procedure referred to in Article 42(2).

~~6.~~—[Deleted]

7. The **gradual** provision of governmental services shall be ensured as laid down in the service portfolio referred to in Article 7(1-a) **based on the proper implementation of the activities set out in Article 4(1)(a) and (c).**

*Article 7*

**Services portfolio**

~~1.~~—[Deleted]

- 1-a. The service portfolio for the governmental services **shall be established. It shall consist of the following categories of services, which complements the portfolio of GOVSATCOM services referred to in Article 63(3) of the Space Regulation:**

- (a) services offered to governmental users based on the governmental infrastructure, such as robust worldwide low-latency service or space data relay;
- (b) services offered to governmental users based on the commercial infrastructure, such as assured worldwide low latency service or worldwide narrowband service;
- (c) quantum key distribution service.

The service portfolio for the governmental services shall also comprise the characteristics for each category of service, such as geographical coverage, frequency, bandwidth, user equipment and security features.

- 1a. The Commission shall adopt the service portfolio for the governmental services by means of implementing acts. Those implementing acts shall be based on the operational requirements referred to in paragraph 2 of this Article and applicable security requirements referred to in Article 27(2). These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. The Commission shall adopt, by means of implementing acts, the operational requirements for governmental services, 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 requirements of the Programme users **and** shall take into account requirements stemming from existing user equipment and networks and operational requirements for GOVSATCOM services **adopted in accordance with** ~~according to~~ Article 63(2) of the Space Programme Regulation **(EU) 2021/696**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

~~3.~~—[Deleted]

4. The terms and conditions for the provision of commercial services shall be determined in the contracts referred to in Article 15.

*Article 8 [Deleted]*

*Article 9*

### **Programme participants and competent authorities**

1. Member States, the Council, the Commission and the European External Action Service (EEAS) shall be the Programme participants insofar as they authorise the users of the governmental services or provide capacities, sites or facilities.
2. Union agencies and bodies may become the Programme participants insofar as necessary to fulfil their tasks and in accordance with detailed rules laid down in an administrative arrangement concluded between the agency concerned and the Union institution that supervises it.
3. Third countries and international organisations may become the Programme participants in accordance with Article 36.

4. Each Programme participant shall designate one Secure Connectivity Competent authority.

That requirement shall be deemed to be complied with by the Programme participants, if they satisfy the following criteria:

- (a) they are also GOVSATCOM participants referred to in Article 68 of Regulation (EU) 2021/696; and
- (b) they have designated a competent authority in accordance with Article 68(4) of Regulation 2021/696.

~~4a. The prioritisation of governmental services between the users authorised by each Programme participant shall be determined and implemented by that Programme participant. [Moved to article 10(3)]~~

5. A Secure Connectivity Competent authority referred to in paragraph 4 shall ensure that:

- (a) the use of governmental services is in compliance with the applicable security requirements referred to in Article 27(2);
- (b) the access rights to the governmental services are determined and managed;
- (c) user equipment necessary for the use of the governmental services and associated electronic communication connections and information are used and managed in accordance with 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 the Programme.

*Article 10*

**Users of the governmental services**

1. The following entities may be authorised as users of the governmental services:
  - (a) a Union or Member State public authority or a body entrusted with the exercise of such public authority;
  - (b) a natural or legal person acting on behalf of and under the control of an entity referred to in point (a) of this paragraph.
2. The users of the governmental services referred to in paragraph 1 shall be duly authorised by the Programme participants referred to in Article 9 to use the governmental services and shall comply with the general security requirements referred to in Article 27(2).
- 3. The prioritisation of governmental services between the users authorised by each Programme participant shall be determined and implemented by that Programme participant.**



## Chapter III

### Budgetary contribution and funding mechanisms

#### *Article 11*

#### **Budget**

1. The financial envelope for the implementation of the Programme for the period from 1 January 2023 to 31 December 2027 and for covering the associated risks shall be EUR 1.600 billion in current prices distributed as follows **from the MFF 2021-27:-**
  - EUR 0.950 billion from Heading 1;
  - EUR 0.500 billion from Heading 5;
  - EUR 0.150 billion from Heading 6.
2. The Programme shall be complemented by funding implemented under the Horizon Europe Programme, the Union Space Programme and the Neighbourhood, Development and International Cooperation Instrument (NDICI) for a maximum amount of EUR 0,430 billion, EUR 0,220 billion and EUR 0,150 billion respectively. **Those amounts shall be used to cover all the activities required to fulfil the objectives referred to in Article 3(1)(-a) and (a).** This funding shall be implemented in accordance with Regulation (EU) No 2021/695, Regulation (EU) No 2021/696 and Regulation (EU) No. 2021/947 respectively.
3. The amount referred to in paragraph 1 shall be used to cover all the activities required to fulfil the objectives referred to in Article 3(1)(-a) and (a). Such expenditure may also cover:
  - (a) studies and meetings of experts, in particular compliance with its cost and time constraints;
  - (b) information and communication activities, including corporate communication on the policy priorities of the Union where they are directly linked to the objectives of this Regulation, with a particular view to creating synergies with other Union policies;

- (c) the information technology networks whose function it is to process or exchange information, and the administrative management measures implemented by the Commission, including in the field of security, 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.

~~3 a. The maximum amounts referred to in paragraph 2 shall be used to cover all the activities required to fulfil the objectives referred to in Article 3(1)( a) and (a) in so far as they are coherent and complementary with the Union programmes referred to in paragraph 2.~~

- 3a. Actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.
- 4. Budgetary commitments for activities extending over more than one financial year may be broken down over several years into annual instalments.
- 5. Resources allocated to Member States under shared management may, at the request of the Member State concerned, be transferred to the Programme, subject to the conditions set out in Article 26 of the Common Provisions Regulation. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

## *Article 12*

### **Cumulative and alternative funding**

An action that has received a contribution from another Union programme, including funds under shared management, may also receive a contribution under the Programme, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action. The support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.

## *Article 13*

### **Additional Contributions to the Programme**

1. The Programme may receive additional financial contributions or contributions in-kind from any of the following:
  - (a) Union agencies and bodies;
  - (b) Member States in line with relevant agreements;
  - (c) Third countries participating in the programme in line with relevant agreements;
  - (d) European Space Agency (ESA) in line with relevant agreements;
  - (e) other international organisations in line with relevant agreements.
2. The additional financial contribution referred to in paragraph 1 of this Article and revenues pursuant to Article 6a(4) shall be treated as external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046 (the 'Financial Regulation').

#### *Article 14*

### **Implementation and forms of Union funding**

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

## **Chapter IV**

### **Implementation of the Programme**

#### *Article 15*

### **Implementation model**

1. The activities set out in Article 4 of this Regulation shall be implemented through contracts awarded in compliance with the Financial Regulation and the principles of procurement under Article 17 of this Regulation and may take the form of a concession contract, a supply, service, or works contract or a mixed contract.
- 1a. The contracts referred to in this Article shall be procured under direct or indirect management and may take the form of an inter-institutional procurement referred to in Article 165(1) of the Financial Regulation, between the Commission and the Agency, whereby the Commission shall assume the role of lead contracting authority.

2. If the result of the procurement procedure referred to in paragraph 1 takes the form of a concession contract, such contract shall set the architecture of the secure connectivity system, roles, responsibilities, financial scheme and allocation of risks between the Union and the contractors taking into account the ownership regime under Article ~~5a~~<sup>46</sup> and the funding of the Programme under Chapter III.

~~3. — [Deleted]~~

4. If a concession contract is not awarded, the Commission shall **ensure an optimal implementation of the objective referred to in Article 3(1)(a) by procuring, as appropriate, a supply, service, or works contract or a mixed contract, as appropriate, for an optimal implementation of the Programme.**

**4a. The Commission may take necessary measures to ensure continuity of the governmental services if the contractors are unable to fulfil their obligations.**

5. Where appropriate, the procurement procedures for the contracts referred to in this Article may also take the form of joint procurements with Member States, according to Article 165(2) of the Financial Regulation.
6. The contracts referred to in this Article shall in particular ensure that the provision of commercial services preserves the Union's essential interests and the Programme's general and specific objectives referred to in Article 3. They shall also include adequate safeguards to avoid any overcompensation of the contractors, distortions of competition, any conflict of interest, undue discrimination and any other hidden indirect advantages. Such safeguards may include the obligation of accounting separation between the provision of governmental services and the provision of commercial services, including the setting up of a structurally and legally separate entity from the vertically integrated operator for the provision of governmental services, and the provision of fair, reasonable and non-discriminatory access to infrastructure necessary for the provision of commercial services.
- 6a. Where the governmental and commercial services rely on common subsystems or interfaces to ensure synergies, the contracts referred to in this Article shall also determine which of those interfaces and common subsystems shall be part of the governmental infrastructure in order to ensure the protection of the security interests of the Union and its Member States.

7. The contracts referred to in this Article shall contain provisions on the establishment of a scheme to offset the CO<sub>2</sub> emissions generated by the development, production and deployment of the infrastructure referred to in Article 5, as well as appropriate measures for spacecraft disposal at the end of operational lifetime.

~~Article 16 [Deleted]~~

## Article 17

### Principles of procurement

1. Public procurement under the Programme shall be carried out in accordance with the rules on procurement laid down by the Financial Regulation.
2. In public procurement procedures for the purpose of the Programme, complementing the principles laid down in the Financial Regulation, the contracting authority shall act in accordance with the following principles:
  - (a) to promote in all Member States across the Union and throughout the supply chain, the widest and most open participation possible by economic operators, in particular start-ups, SMEs and midcaps, including in the case of sub-contracting by the tenderers;
  - (b) to ensure effective competition in the tendering process, while taking into account the objectives of technological independence and continuity of services;
  - (c) to follow the principles of open access and competition, by tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules and procedures, selection and award criteria and any other relevant information allowing a level-playing field for all potential tenderers;
  - (d) to protect the security and public interest of the Union and its Member States, including through a reinforcement of the autonomy of the Union, in particular in technological terms;

- (e) to comply with the security requirements of the Programme and to contribute to the protection of the essential security interests of the Union and its Member States;
- (f) by way of derogation from Article 167 of the Financial Regulation, to use, wherever appropriate, multiple supply sources in order to ensure better overall control of all the Programme's components, ~~their~~ **its** cost and schedule;
- (g) to promote service continuity and reliability;
- (h) to satisfy environmental criteria;
- (i) to ensure the effective promotion of equal opportunities for all, and the implementation of gender mainstreaming, and of the gender dimension and shall aim to address the causes of gender imbalance. Particular attention shall be paid to ensure gender balance in evaluation panels.

#### *Article 18*

#### **Subcontracting**

1. To encourage new entrants, SMEs and start-ups **and their cross-border participation**, and to offer the widest possible geographical coverage ~~within~~ **while protecting** the Union's **autonomy**, ~~for contracts above EUR 10 million~~, the contracting authority shall **request that the tenderer subcontracts part of the contract** ~~aim to ensure that at least 15 % of the value of the contract is subcontracted by competitive tendering at various~~ **the appropriate** levels of subcontracting to companies other than those ~~affiliated with~~ **which belong to** the tenderer's group. ~~The Commission shall inform the Programme committee referred to in Article 42 on the fulfilment of that objective.~~
2. The tenderer shall justify any derogation from a request made under paragraph 1.
3. **For contracts above EUR 10 million, the contracting authority shall aim to ensure that at least 15 % of the value of the contract is subcontracted by competitive tendering at various levels of subcontracting to companies outside the group of the prime tenderer, particularly in order to enable the cross-border participation of SMEs. The Commission shall inform the Programme committee referred to in Article 42 on the fulfilment of that objective for contracts signed after the entry into force of this Regulation.**

*[Article 19]*

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

Eligibility and participation conditions shall apply to the award procedures carried out in the implementation of the Programme, where necessary and appropriate to preserve the security, integrity and resilience of the operational Union systems as set out in Article 24 of Regulation (EU) 2021/696, taking into account the objective to promote the Union's strategic autonomy, in particular in terms of technology across key technologies and value chains, while preserving an open economy.]

*Article 20*

**Protection of the financial interests of the Union**

Where a third country participates in the Programme by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF, ~~the European Public Prosecutor's Office~~ and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.



**Chapter V**  
**Governance of the Programme**

*Article 21*

**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 the Programme
- (b) relevance of the governance structure to the specific needs of the Programme and measures, as appropriate;
- (c) strong control of the Programme, including strict adherence to cost, schedule and performance by all the entities, within their respective roles and tasks in accordance with this Regulation;
- (d) transparent and cost-efficient management;
- (e) service continuity and necessary infrastructure continuity, including security monitoring and management and protection from relevant threats;
- (f) systematic and structured consideration of the needs of users of the data, information and services provided by the Programme, as well as of related scientific and technological evolutions;
- (g) constant efforts to control and mitigate risks.

## Article 22

### Role of the Member States

1. Member States may contribute with their technical competence, know-how and assistance, in particular in the field of safety and security, or, where appropriate and possible, by making available to the Union the data, information, services and infrastructure located on their territory.
2. The Member States shall ensure coherence and complementarity of the relevant activities under their recovery and resilience plans under Regulation (EU) 2021/241 of the European Parliament and of the Council<sup>31</sup> with the Programme.
3. The Member States shall take all the necessary measures to ensure the smooth functioning of the Programme, including by helping to secure and protect, at the appropriate level, the frequencies required for the Programme.
4. The Member States and the Commission may cooperate to widen the uptake of governmental services provided by the Programme.
5. In the field of security, the Member States shall perform the tasks referred to in Article 42 of Regulation (EU) 2021/696.
6. The Member States shall provide their operational needs in order to consolidate and refine the capacity and the specifications of the governmental services.
7. The Commission may entrust, by means of contribution agreements, specific tasks to Member State organisations, where such organisations have been designated by the Member State concerned. The Commission shall adopt the contribution decisions regarding the contribution agreements by means of implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 42(1a).

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<sup>31</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

## *Article 23*

### **Role of the Commission**

1. The Commission shall have overall responsibility for the implementation of the Programme, including in the field of security, without prejudice to Member States' prerogatives in the area of national security. The Commission shall, in accordance with this Regulation, determine the priorities and evolution of the Programme, in line with the user requirements, and shall supervise its implementation, without prejudice to other policies of the Union.
2. The Commission shall ensure a clear division of tasks and responsibilities between the various entities involved in the Programme and shall coordinate the activities of those entities. The Commission shall also ensure that all the entrusted entities involved in the implementation of the Programme protect the interests of the Union, guarantee the sound management of the Union's funds and comply with the Financial Regulation and this Regulation.
3. The Commission shall procure, award and sign the contracts referred to in Article 15 in compliance with the Financial Regulation.
4. The Commission may entrust tasks concerning the Programme to the Agency and ESA under indirect management, in compliance with their respective roles and responsibilities as set out under Articles 24 and 25. In order to facilitate the achievement of the objectives under Article 3 and promote the most efficient cooperation between the three entities, the Commission may establish contribution agreements with each entity.
5. Without prejudice to the tasks of the contractor referred to in Article 15(2), the Agency or other entrusted entities, the Commission shall ensure the uptake and use of the governmental services. It shall ensure complementarity, consistency, synergies and links between the Programme and other Union actions and programmes.

6. Where appropriate, the Commission shall ensure the coherence of activities performed in the context of the Programme with the activities already being carried out in the space domain at Union, national or international level. It shall encourage cooperation between the Member States and, where relevant to the Programme, facilitate interoperability of their technological capacities and developments in the space domain.
7. The Commission shall inform the Programme committee referred to in Article 42(1) of the interim and final results of the evaluation of any procurement procedures and of any contracts, including subcontracts, with public and private entities.

#### *Article 24*

#### **Role of the Agency**

1. The own task of the Agency shall be to ensure, through its Security Accreditation Board, the security accreditation of the governmental infrastructure and governmental services in accordance with Chapter II of Title V of Regulation (EU) 2021/696.
- 1a. The Commission shall entrust, by means of one or more contribution agreements, the following tasks to the Agency:
  - (a) operational security of the governmental infrastructure, including risk and threat analysis, security monitoring, in particular setting technical specifications and operational procedures, and monitoring their compliance with the general security requirements referred to in Article 27(2);
  - (b) provision of the governmental services to the governmental users, in particular through the GOVSATCOM Hubs;
  - (c) overarching coordination of user-related aspects of the governmental services in close collaboration with Member States, relevant Union agencies, EEAS and other entities;

- (d) undertaking activities related to user uptake of governmental services offered by the Programme without affecting the activities performed by the contractor referred to in Article 15(2) under contracts referred to in Article 15.
2. The Commission may entrust, by means of one or more contribution agreements, the following tasks to the Agency:
- (a) all or part of the operational management of the governmental infrastructure of the Programme;
- ~~(b)~~—[Deleted]
- ~~(c)~~—[Deleted]
- (d) management of contracts referred to in Article 15, after their award and signature.
- ~~(e)~~—[Deleted]
- ~~(f)~~—[Deleted]
3. By way of derogation from Article 62(1) of the Financial Regulation and subject to the Commission's assessment of the protection of the Union's interests, the Agency may entrust, by means of contribution agreements, specific activities to other entities, in areas of their respective competence, under the conditions of indirect management applying to the Commission.
4. Where activities are entrusted to the Agency, appropriate financial, human and administrative resources shall be ensured for their implementation. For this purpose, the Commission may allocate part of the budget for the activities entrusted to the Agency for the funding of human resources necessary for their implementation.

## Article 25

### Role of ESA

1. Provided that the interest of the Union is protected, ESA may be entrusted with the following tasks:
  - (a) the supervision of the development, ~~and~~ of the validation and of the related deployment activities referred to in Article 4(1), point (a) and of the development and evolution referred to in point Article 4(1), point (e), undertaken within the framework of contracts referred to in Article 15, ensuring coordination between the tasks and budget entrusted to ESA under the present article and possible ESA's own resources made available to the Programme or to the contractor referred to in Article 15(2) according to terms and conditions to be agreed in the contribution agreements referred to in Article 23(4);
  - (b) the provision of its expertise to the Commission; including for the preparation and implementation of the technical aspects of the Programme;
  - (c) the support to the evaluation of contracts under Article 15.
2. On the basis of an assessment by the Commission, ESA may be entrusted with other tasks based on the needs of the Programme, in particular related to space and related ground segment of the EuroQCI ~~European Quantum Communication Infrastructure~~, provided that those tasks do not duplicate activities performed by another entity in the context of the Programme and that they aim to improve the efficiency of the implementation of the Programme's activities.

## **Chapter VI**

### **Security of the Programme**

*[Article 26]*

### **General principles of security**

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

*[Article 27]*

### **Governance of security**

1. The Commission shall, in its field of competence and with the support of the Agency, ensure a high degree of security with regard, in particular, to:
  - (a) the protection of infrastructure, both ground and space, and of the provision of services, particularly against physical or cyber-attacks, including interference with data streams;
  - (b) the control and management of technology transfers;
  - (c) the development and preservation within the Union of the competences and know-how acquired;
  - (d) the protection of sensitive non-classified information and classified information.
2. For the purposes of paragraph 1 of this Article, the Commission shall ensure that a risk and threat analysis is performed for the governmental infrastructure referred to in Article 5(2). Based on that analysis it shall determine, by means of implementing acts the general security requirements. In doing so, the Commission shall take account of the impact of those requirements on the smooth functioning of the governmental infrastructure, in particular in terms of cost, risk management and schedule, and shall ensure that the general level of security is not reduced, the functioning of the equipment is not undermined and the cybersecurity risks are take into account. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

3. Article 34(3) to (7) of Regulation (EU) 2021/696 shall apply to this Programme. For the purposes of this Regulation, the term ‘component’ in Article 34 of Regulation (EU) 2021/696 shall be read as ‘governmental infrastructure’ and all the references to Article 34(2) of Regulation (EU) 2021/696 shall be construed as references to paragraph 2 of this Article.]

*[Article 28]*

**Security of the system and services deployed**

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

*[Article 29]*

**Security Accreditation Authority**

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

*[Article 30]*

**General principles of security accreditation**

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

*[Article 31]*

**Tasks and composition of the Security Accreditation Board**

1. Article 38, with the exception of points (c) to (f) of paragraph 2 and point (b) of paragraph 3, and Article 39 of Regulation (EU) 2021/696 shall apply to this Programme.
2. In addition to paragraph 1 and on an exceptional basis, representatives of the contractor referred to in Article 15(2) of this Regulation may be invited to attend the meetings of the Security Accreditation Board as observers for matters directly relating to that contractor.]



*[Article 32*

**Voting rules of the Security Accreditation Board**

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

*[Article 33*

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

1. Article 41(1) to (4) of Regulation (EU) 2021/696 shall apply to the decisions of the Security Accreditation Board. For the purposes of this Regulation, the term ‘component’ in Article 41 of Regulation (EU) 2021/696 shall be read as ‘governmental infrastructure’.
2. The timetable for the work of the Security Accreditation Board shall not hamper the timetable of activities provided in the work programme referred to in Article ~~37~~38(1). ]

*[Article 34*

**Role of the Member States in security accreditation**

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

*[Article 35*

**Protection of classified information**

1. Article 43 of Regulation (EU) 2021/696 shall apply to classified information related to the Programme.
2. Classified information generated by ESA in relation with the tasks entrusted under Article 25(1) and (2) shall be considered as EU Classified Information in accordance with Commission Decision (EU, Euratom) 2015/444<sup>32</sup> and Council Decision 2013/488/EU<sup>33</sup>, created under the authority of the Commission.]

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<sup>32</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

<sup>33</sup> Council Decision of 23 September 2013 on the security rules for protecting EU classified information, (OJ L 274, 15.10.2013, p. 1).

## Chapter VII

### International relations

#### *Article 36*

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

1. In accordance with the conditions laid down in a specific agreement concluded in accordance with Article 218 TFEU covering the participation of a third country to any Union programme, the Programme shall be open to the participation of members of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA), as well as of the following third countries:
  - (a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions or in similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;
  - (b) European Neighbourhood Policy countries, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions or in similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;
  - (c) third countries, other than those third countries covered in points (a) and (b).
2. The Programme shall be open to the participation of **an** international organisations in accordance with **a specific** agreements concluded in accordance with Article 218 TFEU.

3. The specific agreement referred to in paragraphs 1 and 2 shall:
- (a) ensure a fair balance as regards the contributions and benefits of the third country or international organisation participating in the Union programmes;
  - (b) lay down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes, and their administrative costs;
  - (c) not confer on the third country or international organisation any decision-making power in respect of the Union programme;
  - (d) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests.
- ~~(e)~~—[Deleted]
4. Without prejudice to the conditions laid down in paragraphs 1, 2 and 3 **of this Article**, and in the interest of security, the Commission may, by means of implementing acts, establish additional requirements for the participation of third countries and international organisations in the Programme, to the extent compatible with the existing agreements referred to in paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

#### *Article 37*

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

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

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

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

## **Chapter VIII**

### **Programming, monitoring, evaluation and control**

#### *Article 38*

##### **Programming, monitoring and reporting**

1. The Programme shall be implemented by the work programme referred to in Article 110 of the Financial Regulation. The work programme 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 ~~as defined in Article 2(27) of the Union Space Programme referred to in Article 100 of Regulation (EU) 2021/696~~. The work programme shall complement the work programme for GOVSATCOM component of the Union Space Programme referred to in Article 100 of Regulation (EU) 2021/696.

The Commission shall adopt the work programme by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. Indicators to report on progress of the Programme towards the achievement of the general and specific objectives laid down in Article 3 are set out in the Annex.
3. The Commission is empowered to adopt delegated acts, in accordance with Article 43, to amend the Annex with regard to the indicators where considered necessary as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
4. Where imperative grounds of urgency so require, the procedure provided for in Article 44 shall apply to delegated acts adopted pursuant to this Article.

5. The performance reporting system shall ensure that data for monitoring the implementation and the results of the Programme are collected efficiently, effectively, and in a timely manner.
- To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where appropriate, on Member States.
6. For the purposes of paragraph 2, the recipients of Union funds shall provide appropriate information. The data necessary for the verification of the performance shall be collected in an efficient, effective and timely manner.

#### *Article 39*

#### **Evaluation**

1. The Commission shall carry out evaluations of the Programme in a timely manner to feed into the decision-making process.
2. By [DATE 3 YEARS AFTER THE ENTRY INTO FORCE], and every four years thereafter, the Commission shall evaluate the implementation of the Programme. It shall assess:
  - (a) the performance of the secure connectivity system and services provided under the Programme in particular low latency, reliability, autonomy and worldwide access;
  - (aa) the governance and implementation models;
  - (b) the evolution of needs of the users of the Programme;
  - (ba) the evolution of available capacities and development of new technologies;
  - (c) the leveraging of New Space, **especially start-ups and SMEs.**

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

3. The evaluation of the Programme shall take into consideration the results of the evaluation of the GOVSATCOM component of the Union Space Programme, carried out in accordance with Article 102 of Regulation (EU) 2021/696.

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 the Commission with the data and information necessary for the evaluation referred to in paragraph 1.
6. Two years after the full operational capability, and every two years thereafter, the Agency shall issue a market report, in consultation with relevant stakeholders, on the impact of the Programme on the EU commercial satellite upstream and downstream industry with a view to ensuring the minimum possible impact on competition and the maintenance of incentives to innovate.

#### *Article 40*

##### **Audits**

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

#### *Article 41*

##### **Personal data and privacy protection**

All personal data handled in the context of the tasks and activities provided for in this Regulation, including by the Agency, shall be processed in accordance with the applicable law on personal data protection, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>34</sup> and Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>35</sup>.

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<sup>34</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

<sup>35</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

## **Chapter IX**

### **Delegation and implementing measures**

#### *Article 42*

#### **Committee procedure**

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

For the purposes of the adoption of implementing acts referred to in Articles 5(3) and 27(2) of this Regulation, the committee referred to in the first subparagraph of this paragraph shall meet in the security configuration defined in Article 107(1), point (e), of Regulation (EU) 2021/696.

- 1a. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the Programme committee delivers no opinion on the draft implementing act referred to in Article 27(2) of this Regulation, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph of Regulation (EU) No 182/2011 shall apply.

#### *Article 43*

#### **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 Article 38 shall be conferred on the Commission until 31 December 2028.

3. The delegation of power referred to in Article 38 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 38 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 44*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 43(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.



## **Chapter X**

### **Transitional and final provisions**

#### *Article 45*

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

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, to actions taken pursuant to the Programme and to the results obtained.
3. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 3.

#### *Article 46*

#### **Continuity of services after 2027**

If necessary, appropriations **from the MFF 2021-27** may be entered in the Union budget beyond 2027 to cover the expenses necessary to fulfil the objectives provided for in Article 3, to enable the management of actions not completed by the end of the Programme, as well as expenses covering critical operational activities and services provision.

#### *Article 47*

#### **Entry into force**

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

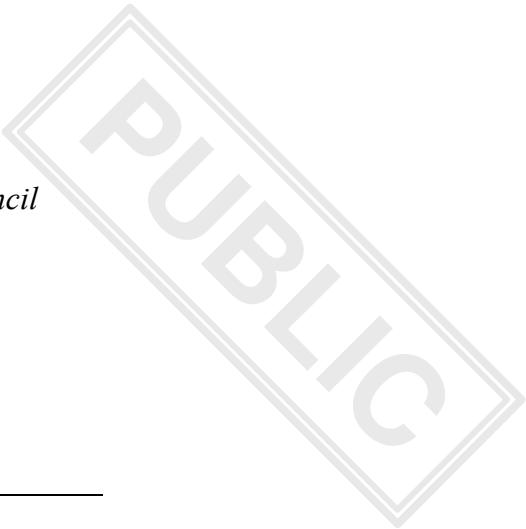
This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

*For the European Parliament*

The President      The President

*For the Council*



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