European Economic and Social Committee

TEN/203
Deployment and commercial operation/GALILEO

Brussels, 9 February 2005

OPINION

of the
European Economic and Social Committee
on the

Proposal for a Regulation of the European Parliament and the Council on the implementation of the deployment and commercial operating phases of the European programme of satellite radionavigation

COM(2004) 477 final – 2004/0156 (COD)

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On 16 November 2004, the Council decided to consult the European Economic and Social Committee, under Article 156 of the Treaty establishing the European Community, on the

> *Proposal for a Regulation of the European Parliament and the Council on the implementation of the deployment and commercial operating phases of the European programme of satellite radionavigation*
> COM(2004) 477 final – 2004/0156 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 January 2005. The rapporteur was Mr Rannocchiari.

At its 414th plenary session, held on 9 and 10 February 2005 (meeting of 9 February) the European Economic and Social Committee adopted the following opinion by 134 votes with 3 abstentions:

1. Introduction

1.1 Recognising its fundamental strategic importance for a competitive European system, the EESC has followed developments in the Galileo programme for satellite radionavigation and positioning infrastructure since its inception. Galileo's significance lies in its innovational impact on associated aspects of the economy, employment and the social dimension, as well as the enhanced quality of life for civil society that Galileo can ensure[1]. Furthermore, the EESC has been aware of the need to involve the private sector in the development and use of the system since the very foundation of the Galileo Joint Undertaking[2], thereby ensuring sustained support throughout the development and deployment phases[3].

1.2 In its most recent opinion[4] on the subject, the EESC emphasised that "The Galileo programme finally entered the actual starting phase following the agreement on 26 May 2003 in the Council of the European Space Agency (ESA) on the respective financial contributions of the ESA Member States." It also reaffirmed that "The Galileo programme represents a major challenge for the European Union, its independence, its technological and scientific capacity, its economy and, primarily, its space and telecommunications industries."

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1 Opinion CES 1116/2001 of 12 September 2001 – OJ C 311 17/11/2001 p. 19.

2 Galileo Joint Undertaking, set up under Article 171 of the EC Treaty by Council Regulation EC 876/2002 of 21 May 2002. It ensures the implementation of the development phase of the Galileo Programme and provides for the management of the deployment and operative phases. Its headquarters are in Brussels. Its founding members are the European Community, represented by the Commission, and the European Space Agency.

3 Opinion CES 1475/2001 of 28 November 2001 – OJ C 48, 21/02/2002 p. 42

4 EESC opinion on the Communication from the Commission to the European Parliament and the Council - Progress report on the GALILEO research programme as at the beginning of 2004. OJ C 302 of 7 December 2004

2. Current state of play and anticipated developments

2.1 It should be remembered that the Galileo Programme has four phases:

– A **definition phase** from 1999 to 2001, during which the architecture of the system was designed and the five services listed below were defined. This phase was primarily funded by the 5th RTD Framework programme 1998-2002.

– A **development and validation phase**, which runs from 2002 to 2005 and covers the development of the satellites and the system's ground components, as well as validation in orbit. EU/ESA funding amounted to EUR 1.2 billion, over and above the EUR 100 million contributed by the 6th RTD Framework Programme 2002-2006.

– A **deployment phase** covering 2006 and 2007 will involve the building and launching of satellites - the first two satellites are due to be launched towards the end of 2005 – and the establishment of the entire ground-based component. Overall funding is estimated at EUR 2.1 billion, one-third of which (i.e. EUR 700 million) will come from the Community budget. The remaining two-thirds (i.e. EUR 1.4 billion) of the cost will be borne by the consortium to be selected.

– The **commercial operating phase** is scheduled to begin in 2008. Estimated annual management and maintenance costs amounting to approximately EUR 220 million are to be borne entirely by the private sector, except for an exceptional total Community contribution of EUR 500 million to cover the first years of this phase, in accordance with decisions to be taken under the new Community financial perspectives for 2007-2013.

2.2 At the end of the definition phase in May 2002, the Galileo Joint Undertaking was established for a four-year period "to ensure the unity of the administration and financial control of the project for the research, development and demonstration of the Galileo Programme and to this end mobilise the funds assigned to that programme".

2.3 Furthermore, Council Regulation 1321/2004[5], which establishes the **GNSS (Global Navigation Satellite System) Supervisory Authority** and the Council Joint Action 2004/552/CFSP[6], both of 12 July 2004, set up the operational structures of the system to ensure the management of the public interests inherent to the programmes and the security and protection of the Galileo system.

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5 Council Regulation on the establishment of structures for the management of the European satellite radionavigation programmes (OJ L 246 of 20 July 2004)

6 See OJ L 246, of 20 July 2004

2.4 At international level, the **European Union** and the **United States of America** signed an extremely important agreement on Galileo and GPS[7] on 26 June 2004, following negotiations that lasted four years. The agreement concerns the promotion, supply and use of the two satellite navigation and positioning systems' services and the full compatibility and interoperability of related applications. The two systems will operate side by side without signal interference. This will enable Galileo to become the world standard for open signals in the civilian and commercial use of global navigation satellite systems (GNSS). GPS is operated by the military. In addition, it will also become accessible and "attractive" to current GPS users through a single receiver.

2.5 Also at international level, a cooperation agreement was signed with **Israel** on 13 July 2004. This followed an agreement that had been signed with **China** on 30 October 2003. Negotiations to obtain interoperability with the **Russian system GLONASS**[8] have been ongoing for some time. These negotiations have already reached an advanced stage, especially for the acquisition of frequencies and the use of Russian launch vehicles. Whilst cooperation agreements with the Russian Federation itself, Ukraine and India are at an advanced stage of negotiation, contacts with Australia, Brazil, Mexico and South Korea have been initiated. Switzerland, Norway, and Canada are also looking into the possibility of participating financially.

2.6 In the **Mediterranean basin**, an action plan was launched by the Euro-Mediterranean Conference of Foreign Ministers in Valencia in April 2002. The action plan included Mediterranean cooperation in satellite radionavigation and positioning. More recently, in Cairo, the Galileo Joint Undertaking launched the **Euro-Med GNSS** project for demonstration, training and coordination of the GNSS regional plan, to monitor, in cooperation with its Mediterranean partners, the impact of **EGNOS**[9], a geostationary satellite and Galileo's precursor.

2.7 Once fully operational, the Galileo system will provide **five types of service**:

– an open service that is suitable for mass-market applications for the general public and services of general interest;

– a commercial service that will ensure the development of professional applications, with increased navigation performance and added value data, compared with the open service, with particular reference to a guarantee for the service;

– a high-level performance Safety of Life service for situations where human life is at stake such as maritime and aviation navigation;

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7 US GPS: United States Global Positioning System, operated by the military

8 GLONASS: GLOBAL NAVIGATION SATELLITE SYSTEM.

9 EGNOS: European Geostationary Navigation Overlay Service: system based on the correction of the GPS signal via a network of ground stations and geostationary stations. It was launched in 1996 and operated as Galileo's precursor. EGNOS is to be integrated with the latter under the terms of the joint concession scheme..

– a search and rescue service to make decisive improvements to existing humanitarian search and rescue systems;

– a Public Regulated Service (PRS) in encrypted form. It will be resistant to radio jamming and interference. It will be restricted mainly to public institutions involved in civil protection, national security, peacekeeping missions and law enforcement, where maximum levels of protection are required[10].

2.8 Given Galileo's operational features, civil management and predominantly commercial and professional applications, the Commission considers that its potential market by 2010, could stand at 3 billion receivers, with an annual return of investment of up to EUR 250 billion and the creation of new businesses and highly-skilled jobs in the hundreds of thousands, including approximately 150,000 in Europe.

2.9 The Galileo Joint Undertaking completed the **competitive negotiating phase** in September 2004. It received the two final tenders of two consortia that had applied for the concession contract (Eurely[11] and Inavsat[12]). The final selection was based on the following three criteria: business and financial capabilities; technical capabilities; and legal and technical aspects.

2.10 In accordance with its terms of reference, once the Joint Undertaking had presented a report on the tendering process to the Commission and the Commission had adopted a Communication to the European Parliament and the Council[13] on moving to the deployment and operational phase, it will be able to obtain the "**the necessary political directives on the public funding of the next phases of the programme and the public service tasks,** in particular the definition of the services". As a consequence, it will be able to present a bid for signature by the Supervisory Authority, which is, in fact, the implementing authority under Regulation EC 1321/2004.

2.11 The Committee is concerned that the above-cited procedures could prove too complex, with overlapping and duplicated control measures, which are neither facilitating nor clear.

2.12 Furthermore, the Proposal for a Regulation under consideration provides that the **Supervisory Authority**, which it defines as a Community agency to manage the public interests of the satellite radionavigation programmes covered by EC Regulation 1321/2004, will not be set up until 2005.

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10 See Concession for the deployment and operation phases of the Galileo programme 2003/S 200-179789, published on 17 October 2003

11 EURELY: Consortium founded by ALCATEL, FINMECCANICA and VINCI

12 INAVSAT : founded by EADS Space, Inmarsat Ventures and the Thales Group.

13 COM(2004) 636 final adopted 6 October 2004

3. The European Commission proposal

3.1 The proposal under consideration satisfies the need to provide a specific legal instrument to ensure an independent budget line that will permit more efficient management and monitoring of the deployment and operation phases of Galileo, from a financial point of view and also vis-à-vis the concession holder.

3.2 The Proposal for a Regulation under consideration aims to define the modalities of the financial contribution of the Community for the implementation of the deployment and commercial operating phases. It focuses on:

3.2.1 the need for the Community to guarantee a coherent budgetary framework for the funds generated by the Community itself and the concession holder:

– through the provision of Galileo services;
– through licences and intellectual property rights on system components granted to it free-of-charge by the Supervisory Authority;
– through long term loans granted by the EIB.

3.2.2 An appropriate institutional management and monitoring framework for the Supervisory Authority.

4. General comments

4.1 The EESC believes that immediate steps should be taken to provide greater detail concerning the technical aspects of delivering the various services. This will ensure open standards that will provide access for other service providers and innovative services. Artificial barriers and exorbitant levies would thereby be avoided for newcomers, especially small-scale users.

4.2 With regard to the **coherence of the budgetary framework**, the EESC hopes that new financial perspectives for the Community budget will be adopted as soon as possible. Furthermore, it supports the Commission's request for a specific budget line of EUR 1 billion for the Galileo programme, which would be independent of other budget lines. The Committee also recommends that the sum should be raised to ensure the development and integration of EGNOS into the Galileo programme. The EESC considers that research activities on GNSS satellite radiopositioning should also be included in, and resourced by, the 7th RTD Framework Programme.

4.3 The EESC also believes that clarification is required as to how any future public funding by third country institutions that have already expressed an interest in contributing financially to Galileo will be included in the financial framework.

4.4 The EESC is aware that the budgetary framework foresees advantages for the concession holder due to its role as service provider and user of licences and free IPRs[14]. The EESC is compelled to express its concern that the concession holder may acquire a dominant position or a monopoly, which could distort competition or inhibit the free market.

4.5 With regard to the **appropriateness of the institutional framework for the management and control**, which has been "externalised" to a European agency (the European Supervisory Authority of the global system for satellite radionavigation), the Committee would emphasise the following points.

4.5.1 The European Space Agency is not represented on the **Administrative Board of the European GNSS Authority**. However it is a member of the current Administrative Board of the Joint Undertaking.

4.5.2 The **managerial and supervisory responsibilities** of the Joint Undertaking are to be transferred to the European GNSS Authority, which administers Galileo funds, acts as the contracting authority for the concession contract, monitors compliance with contractual obligations, grants the concession holder the right to use the assets for the duration of the contract, manages the agreement with the EGNOS operator, coordinates the Member States' initiatives regarding the frequencies required to ensure that the system functions, guarantees component certification compliance and enforces compliance with security obligations, including those that derive from Joint Action 2004/552/CFSP.

4.5.3 The EESC cannot conceal its concern regarding the extremely delicate transfer of authority from the **Joint Undertaking**, due to be dissolved in May 2006, and the new **European GNSS Supervisory Authority**, which should become operative in mid-2005.

4.5.4 The Committee therefore recommends that the Commission and the Council should follow closely the "cohabitation" and transitional phase from Joint Undertaking to Supervisory Authority.

4.5.5 The provisions of **Joint Action 2004/552/CFSP** and the Regulation establishing the European GNSS Supervisory authority, which foresees a **System Safety and Security Committee**, will regulate all matters relating to Galileo's internal security.

The EESC believes that relations between the Galileo system and other existing European initiatives such as Global Monitoring for Environment and Security (GMES) and

14 IPR: intellectual property rights.

COSPAS-SARSAT[15] search and rescue system, justice and home affairs networks and GRID multimedia networks should be strengthened forthwith.

4.5.6 The EESC reiterates[16] that it is essential that security concerns and **privacy and personal data protection** issues should be dealt with jointly, **through consultation with the European Fundamental Rights Agency[17] wherever possible, or by setting up an appropriate consultative body**. It would not appear sufficient to rely upon the provisions of Regulation EC 45/2001 referred to in Article 19 of the regulation establishing the European GNSS Supervisory Authority. The EESC considers that explicit guarantees for privacy and personal data protection are no less important than security considerations if the success of Galileo is to be secured through the full support of civil society.

4.5.7 Bearing in mind the need to involve civil society, the EESC notes that an initiative as important for Europe as the Galileo Programme remains virtually unknown to most European citizens. For this reason, the EESC hopes that the European institutions, in coordination with national governments, will launch an information and awareness-raising campaign that will not only raise European citizens' awareness and appreciation of this excellent research product of European industry but will also reassure them that their privacy is being safeguarded.

5. Specific comments

5.1 In view of the foregoing, the EESC recommends that the following points should be added to Recitals in the Proposal for a Regulation:

5.1.1 **New Recital 3(a)**: "In view of the impact that the programme may have on the lives of European citizens, the Commission will take steps to ensure that the European Fundamental Rights Agency, or an alternative *ad hoc* consultative body, be entrusted with privacy and personal data protection in the implementation of Galileo services. This will ensure transparent development, and constant dialogue with potential users and civil society".

5.1.2 **Add to Recital 12**: ", to secure further Community resources on the same budget line for developing and integrating EGNOS into Galileo, and to provide adequate attention and resources within the 7th RTD Framework programme for satellite radionavigation and its integration with existing networks."

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15 COSPAS (Russian acronym for "Cosmicheskaya Sistyema Poiska Avariynich Sudov," or Satellite search system for vessels - SARSAT: Search And Rescue Satellite Aided Tracking: an international satellite search and rescue system with humanitarian objectives. Between 1982 and 2003 the system was responsible for rescuing more than 15,000 people worldwide.

16 See EESC opinion on the Proposal for a Council Regulation on the establishment of the Galileo Joint Undertaking, Point 3.5. OJ C 48 of 21 February 2002

17 See COM(2004) 693 of 25/10/04, a Communication from the Commission that recommends the establishment of the agency in 2005, and proposes that it be entrusted with protecting individuals in matters pertaining to the processing of personal data.

5.1.3 **New Recital 13(a)**: "The Commission and the Council shall ensure that the transition from the Galileo Joint Undertaking to the new European GNSS Supervisory Authority shall be implemented under conditions of absolute transparency to avoid possible duplication, operational delays or, worse still, market restrictions."

5.1.4 **New Recital 14(a)**: "The Commission shall ensure that any financial contributions from third country institutions to the funds of the European GNSS Supervisory Authority reflect mutual interests and existing balances through appropriate agreements to be submitted to the Council and the European Parliament."

6. Conclusions

6.1 The EESC reaffirms its **full support for the Galileo programme** and argues forcefully in favour of accelerating the two final development phases so as to ensure that it is fully operational in all respects by 2008.

6.2 The EESC urges the Commission to undertake an ex ante assessment of the added value for the concession holder, arising from the provision of services and intellectual property rights, and to disseminate clear and precise information based on the assessment's results.

6.3 The EESC considers that vital progress has been made towards setting up **global infrastructure**, in particular the EU-US cooperation agreement ensuring full compatibility and interoperability between existing global satellite radionavigation and positioning systems.

6.4 The EESC stresses the importance of international cooperation with China and Israel and believes that no effort should be spared in concluding mutual interest agreements with Switzerland, Norway, the Russian Federation, Ukraine, India, Australia, Mexico, Brazil and South Korea. The Committee considers the Mediterranean basin to be a privileged area, in so far as it is already able to benefit from EGNOS services. Furthermore, it is of strategic importance for peace, stability and sustainable development in Europe.

6.5 In this regard, the EESC is convinced that extending accessibility to third countries constitutes a vital contribution to the external dimension of European Union policy.

6.6 The EESC hopes that the European Commission will be provided with a dedicated budget line for an information and awareness-raising campaign that will not only raise European citizens' awareness and appreciation of this excellent research product of European industry but will also reassure them that their privacy is being safeguarded.

6.7 Finally, the EESC hopes that its comments regarding certain recitals will be accepted (protection of privacy, increased financial resources, transitional phase and contribution of third

countries) as defined above. The proposals aim to contribute to the clarity and transparency of the initiative and to ensure that it is allocated sufficient resources. Consequently, they are in the interest of the European institutions as well as civil society.

Brussels, 9 February 2005.

The President of the European Economic and Social Committee	The Secretary-General of the European Economic and Social Committee
Anne-Marie Sigmund	Patrick Venturini