



European Economic and Social Committee

TEN/259
Statutes of the Galileo Joint
Undertaking

Brussels, 26 October 2006

OPINION

of the

European Economic and Social Committee

on the

Proposal for a Council Regulation amending the Statutes of the Galileo Joint Undertaking

annexed to Council Regulation (EC) No 876/2002

COM(2006) 351 final – 2006/0115 (CNS)

On 19 July 2006 the Council decided to consult the European Economic and Social Committee, under Article 171 of the Treaty establishing the European Community, on the

Proposal for a Council Regulation amending the Statutes of the Galileo Joint Undertaking annexed to Council Regulation (EC) No 876/2002
COM(2006) 351 final – 2006/0115 (CNS).

On 4 July 2006, the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Pezzini as rapporteur-general at its 430th plenary session, held on 25 and 26 October 2006 (meeting of 26 October), and adopted the following opinion by 116 votes with two abstentions.

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1. **Conclusions and recommendations**

- 1.1 The European Economic and Social Committee reiterates the great importance it attaches to the success of the Galileo satellite radio-navigation programme. The EESC has emphasised in several opinions¹ on the matter that Galileo is the European Union's flagship scientific and technical project, particularly in terms of the strategic challenge that the civilian-managed European satellite radio-navigation system represents, not just for the global system of satellite navigation and positioning, but also for services to business, citizens, society and for a more globally competitive European industry.
- 1.2 The Committee believes it is essential that the strategic value of the Galileo programme should be universally recognised, given that it is the biggest public-private partnership project ever undertaken thus far on a European scale, and the first public infrastructure with a constellation of thirty satellites over three different orbits. It is the property of the European

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Opinion of the European Economic and Social Committee on the European satellite navigation programme (Galileo) OJ C 311 of 7.11.2001 p 19.

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation on the establishment of the GALILEO Joint Undertaking OJ C 48 of 21.2.2002 p 42.

Opinion of the European Economic and Social Committee 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 7.12.2004 p 35.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on the implementation of the deployment and operational phases of the European satellite radionavigation programme of 2004, OJ C 221 of 8.9.2005 p 28.

Opinion of the European Economic and Social Committee on the GALILEO programme: successful establishment of the European supervisory authority – CESE 1179/2006 of 13.9.2006.

institutions and can offer a new global public service with a market that is increasing exponentially², and with accurate space and time positioning over the entire planet.

- 1.3 The Committee cannot conceal its concern regarding the delay in completing the development and in-orbit validation phase for the satellites and ground components of the system, which was meant to have been concluded under the responsibility of the Galileo Joint Undertaking during 2006 and which will now last until the beginning of 2009. The successive phases involving positioning the satellite constellation, full installation of the ground components and the operating phase – particularly commercial – cannot therefore be completed before the end of 2010.
- 1.4 The Committee fully agrees with the need to avoid the waste of resources and expertise that would derive from extending the work of the Galileo Joint Undertaking, which was tasked with covering the entire development and in-orbit validation phase, following the establishment of the European GNSS Supervisory Authority, which already started operations in mid-2006, in accordance with the Council Regulation of 12 July 2004³.
- 1.5 The Committee believes, however that it is essential, as it emphasised in a recent opinion⁴: "... for the hand-over period between the Galileo Joint Undertaking (GJU) and the Galileo Supervisory Authority (GSA) to be effected smoothly", and to ensure:
- legal certainty in the transfer of activities from the GJU to GSA;
 - scope for the GSA to intervene in the development phase;
 - solutions to the problems deriving from the European Space Agency/GJU Convention and from the transfer of the activities carried out by GJU third countries⁵ to the GSA;
 - adequate numbers of experienced staff;
 - clarity on international liability for the satellite launching States.

² By 2020, the annual worldwide turnover of these markets is estimated at EUR 300 billion, with 3 billion receivers in operation. Within the European Union alone, it is expected that 150 000 jobs will be created. Cf. Communication of the Commission to the European Parliament and the Council on Taking stock of the Galileo programme, COM(2006) 272 final.

³ OJ L 246 of 20.7.2004, the role of the Supervisory Authority is to manage the public interests connected with the European GNSS programmes and to be the regulatory authority for these. The bodies of the Supervisory Authority are the Administrative Board and the Executive Director. The Administrative Board is composed of one representative appointed by each Member State and one representative appointed by the Commission.

⁴ Cf. CESE 1179/2006 of 13.9.2006, point 1 (rapporteur: Mr Buffetaut).

⁵ A Chinese body, the National Remote Sensing Centre of China, and an Israeli company, MATIMOP, are members of the GJU. They have seats on the Administrative Board and have voting rights in proportion to their financial contribution. They have each provided start-up capital of EUR 5 million.

- 1.6 While the Committee endorses the guiding principles of the proposal to amend the statutes of the GJU⁶, on which referral to the EESC is mandatory under Article 171 of the Treaty, it would highlight the following points and make the recommendations outlined below.
- 1.6.1 While the Committee endorses the amendments to the above Regulation, it feels it is insufficient to propose modifications to the annexed statutes alone. It believes it should also provide for:
- amendment of Article 1 of the Regulation as follows: "For the *implementation of the development activities* of the Galileo programme, and their transfer to the GSA, a Joint Undertaking within the meaning of Article 171 of the Treaty is hereby set up *until 31 December 2006*";
 - the addition of a final subparagraph to the said Article 1 of the Regulation: "*From 1 January 2007 the GSA replaces the former Joint Undertaking in all its rights and obligations, including those deriving from the European Space Agency Convention*";
 - insertion of the following new provision in Article 21 of the Statutes of the Joint Undertaking: "*Prior to the start of the liquidation procedure, agreements will be concluded with the Community regarding the arrangements for third country members of the GJU Administrative Board and ESA third countries to take part in the activities of the GSA*".
- 1.6.2 Regarding the Galileo Supervisory Authority (GSA), the EESC believes it is essential to amend the original GSA regulation "in order to introduce the tasks transferred from the GJU to the GSA, such as steering the development and in-orbit validation phase, managing the activities emerging from the European R&D framework programmes, and monitoring and managing technical developments in the operational system"⁷.
- 1.6.2.1 The GSA was established under Council Regulation No 1321/2004/EC of 12 July 2004 and has been operational since mid-2006. It was set up to provide for management of public interests relating to the European EGNOS and Galileo satellite radio-navigation programmes, and to act as contracting authority for future satellite radio-navigation services concession contracts. However, the regulation does not provide for the GSA to manage the development phase or any research work or activity during such or successive phases, nor does it provide the human and financial resources required to cope with such tasks.
- 1.6.2.2 The Committee has not been consulted on the Council's draft Regulation COM(2006) 261 final of 2 June 2006, amending Regulation No 1321/2004/EC on the establishment of structures for the management of the European satellite radio-navigation programmes. Consequently, a discussion of its content is beyond the scope of the present opinion.

⁶ Annexed to Regulation 876/2002.

⁷ Cf. CESE 1179/2006 of 13.9.2006, paragraph 3.5.11 (rapporteur: Mr Buffetaut).

- 1.7 The Committee believes, however, that it is essential to amend Regulation No 1321/2004/EC in order to ensure the continuity of the Galileo programme and the appropriate transfer of activities from the Galileo Joint Undertaking to the Supervisory Authority, and to provide the best guarantee of completion for the development phase of the Programme once the Joint Undertaking has been wound up. Similarly, the legal, technical and financial arrangements and questions must be clarified, after 31 December 2006, in order to facilitate the completion of the various phases and to ensure the system can be fully operational.
- 1.8 The Committee would stress the need for "the Commission, the Galileo Joint Undertaking, the European GNSS Supervisory Authority and the European Space Agency to make every effort to ensure that the Galileo system is fully operational by the end of 2010", as called for in the Conclusions of the Transport, Telecommunications and Energy Council of 12 October 2006. The Council also welcomed the Commission's legislative proposals aiming to transfer the remaining activities of the Galileo Joint Undertaking to the Authority during 2006.
- 1.9 The Committee requests that it be kept updated on Galileo Programme developments and on the crucial role of the ESA in designing and developing European GNSS programmes. Furthermore, the EESC would like to be consulted on the Green Paper on Galileo applications which the Commission intends to publish before the end of 2006⁸.

2. **Reasons**

- 2.1 The EESC has followed the creation and development of the Galileo European satellite radio-navigation and positioning programme from its very beginnings, recognising the strategic, fundamental role it plays in the competitiveness of the European system, both in terms of its innovative, occupational and social implications, and improved quality of life for citizens.
- 2.2 The Galileo programme provides for four successive phases:
- The definition phase, which ran from 1999 to 2001, during which the system architecture was designed and the five types of service to be offered (listed below) were identified; this phase was mainly financed through the 5th RDT Framework Programme 1998-2002.
 - The development and validation phase, launched in 2002 and initially intended to run until 2005, which includes the development of the system's satellites and ground components as well as in-orbit validation; owing to accumulated delays, it will last until early 2009. Public funding from the EU and the ESA – initially set at EUR 1.2 billion, in addition to the EUR 100 million from the 6th RDT Framework Programme 2002-2006 – will amount to EUR 1.5 billion, managed until 31 December by the Galileo Joint Undertaking and, from 1 January 2007, the Supervisory Authority. The first experimental

⁸ Cf. Council Conclusions on the progress of the Galileo programme, 12 October 2006.

satellite, GIOVE A, has already completed its main mission; some technical issues now need to be finalised, as they are crucial to carrying the project forward.

- The deployment phase, involving the construction and launching of the constellation satellites as well as the full establishment of the earth segment of the infrastructure. This phase was meant to last from 2006 to 2007, but will be carried out in 2009 and 2010 instead. A total of EUR 2.1 billion of funding was initially earmarked, with one third, equal to EUR 700 million, coming from the Community budget, and two-thirds, or approximately EUR 1.4 billion, from private consortia. The deployment and subsequent commercial operating phases are covered by a concession for a period of approximately 20 years. The Supervisory Authority will be the licensing authority.
- The commercial operating phase cannot begin before the end of 2010. 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 Community contribution to cover the first years of this phase, in accordance with decisions taken under the new Community financial perspectives for 2007-2013.

2.3 The Committee is extremely concerned at the delays accumulated in the development and in-orbit validation phase and, consequently, in the subsequent commercial exploitation phases. This is a setback that compromises the general timetable that was established for the project, and holds up the delivery of an exceptional instrument that combines the expertise and results of European research, and that can provide for successful participation in the global market for satellite radio-navigation related products and services. In 2005 this market was worth EUR 60 billion, with an annual growth rate of 25%; it generated, in the EU alone, 150 000 jobs, mainly in the high-tech, research and services sectors.

2.4 As it stressed in a recent opinion⁹, the EESC is even more concerned about the current uncertainty surrounding the legal, technical and financial arrangements and questions. This uncertainty affects both the Galileo Joint Undertaking (GJA) and the Supervisory Authority (GSA) and could, if not resolved by the end of 2006, compromise the satisfactory completion of the different phases which were planned in order to ensure the system can be fully operational, and which can play a fundamental role in delivering a European economy based on more competitive knowledge, on a global level.

2.5 The EESC has previously highlighted the need to involve – from the very launch phase of the Galileo Joint Undertaking – private partners in the development and exploitation of the system, and to provide continuous support when the project is underway, given that Galileo is the biggest European public-private partnership ever.

⁹ EESC opinion on the GALILEO programme: successful establishment of the European supervisory authority – CESE 1179/2006 of 13.9.2006.

- 2.6 At the end of the definition phase in May 2002, the Galileo Joint Undertaking was established in accordance with Article 171 of the EC Treaty by Regulation 876/2002/EC, with the EU and the ESA¹⁰ as founding members, 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”.
- 2.7 The Galileo Joint Undertaking was set up to complete the development phase and to prepare the subsequent phases of the Galileo programme, with two main tasks:
- to direct and coordinate the necessary development and research work, through an agreement with the European Space Agency, tasked with the performance of such duties;
 - to manage the procedure for selecting the future concessionaire.
- 2.8 In its Resolution on the Action Plan for implementing the European Space Policy¹¹ of 29 January 2004, the European Parliament also noted the vital importance of the Galileo Programme for the development of industry, transport, environmental protection and the delivery of the Lisbon Strategy objectives, and called on the Commission and the Council to provide Galileo with efficient structures, and for the creation of a Supervisory Authority to ensure, in addition to transparent operations, the safety of the system¹².
- 2.9 The Supervisory Authority was established under Council Regulation No 1321/2004/EC of 12 July 2004 and has been operational since mid-2006, to provide for management of public interests relating to the European EGNOS and Galileo satellite radio-navigation programmes, and to act as contracting authority for future satellite radio-navigation services concession contracts.
- 2.10 The current regulation does not provide scope for management of the development phase or any research work or activity during such or successive phases, nor does it provide the human and financial resources required to cope with such tasks.
- 2.11 The regulations of the GJU¹³, on the other hand, provide for a four-year timeframe, which expired in mid-2006. The regulation should, therefore, be extended so that the entire satellite and ground component development phase and the "in-orbit" system validation phase can be completed, along with negotiations for selecting the future concessionaire.

¹⁰ ESA: European Space Agency.

¹¹ European Parliament P5_TA(2004)0054 of 29 January 2004.

¹² Supervisory Authority and safety system, Council decisions of 12 July 2004.

¹³ GJU: Galileo Joint Undertaking.

- 2.12 In order to avoid any further project delays and any uncertainty in relations between the different parties, the Committee believes there is a need to proceed with a rapid, transparent review of both the GJU and the GSA regulations, in order to provide the parties with clear ground rules when expertise is transferred between the two bodies.
- 2.13 The Committee endorses the objectives of the proposal under discussion, which aims to avoid the waste of resources and expertise that would derive from extending the work of the Galileo Joint Undertaking following the establishment of the European GSA Supervisory Authority, which already started operations in mid-2006.
- 2.14 The EESC considers, however, that the content of the proposal is inadequate, partly because it confines itself to the GJU statutes annexed to Regulation 876/2002/EC, and partly because the proposal should tie in with the review of the GSA regulation, on which the Committee has not thus far been consulted.
- 2.15 Given the current state of play, the Galileo development phase will not be completed before the end of 2008. Only then will the four satellites that are to be built and launched by the European Space Agency as part of the "in-orbit validation" phase be operational. Consequently, and in accordance with the current statutes, the Galileo Joint Undertaking should continue to operate until the end of 2008, i.e. with a lifecycle approximately three years longer than initially intended.
- 2.16 Furthermore, the GSA was set up to provide for management of public interests relating to the European EGNOS and Galileo satellite radio-navigation programmes, and to act as contracting authority for future satellite radio-navigation services concession contracts, but not to manage the development phase or any research work or activity during that phase. In addition, the GSA has not been provided with the human and financial resources required to cope with such tasks.
- 2.17 The Committee shares the Council's stance on "the importance of promoting the European satellite radio-navigation system in order to achieve commercial success, particularly by research activities." The Council considers that "the largest proportion of the economic benefits of Galileo comes primarily from downstream applications"¹⁴.

Brussels, 26 October 2006.

The President
of the
European Economic and Social Committee

The Secretary-General
of the
European Economic and Social Committee

Dimitris Dimitriadis

Patrick Venturini

¹⁴ Cf. Council Conclusions on the progress of the Galileo programme, Luxembourg, 12 October 2006.