



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 November 2012

16871/12

**Interinstitutional File:
2011/0392 (COD)**

**TRANS 425
MAR 136
AVIATION 184
CAB 35
CODEC 2823
ESPACE 58
FIN 960
CSC 85**

REPORT

from:	Presidency
to:	COREPER/Council

No. prev. doc.:	16185/12 TRANS 395 MAR 134 AVIATION 172 CAB 31 CODEC 2652 ESPACE 53 FIN 857 CSC 74
No. Cion prop.:	17844/11 TRANS 338 MAR 154 AVIATION 254 CAB 54 CODEC 2250 ESPACE 80 FIN 1021

Subject:	<i>Preparation of the Council meeting (Transport, Telecommunications and Energy) on 20 December 2012</i> Proposal for a Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems – <i>Progress report</i>
----------	--

I. Introduction

On 30 November 2011, the Commission transmitted to the Council and the European Parliament the above mentioned proposal. The purpose of this proposal is to establish a new financial and governance framework concerning the two European satellite navigation programmes, Galileo and EGNOS, for the period 2014-2020 and beyond. It replaces and repeals Regulation (EC) No 683/2008, the current basic act for European satellite navigation programmes.

II. Content of the proposal

The proposal contains the following key elements:

- a financial request of 7 billion € in total¹ (fully financed under the EU budget). These appropriations will be used to finance activities related to the completion of the deployment phase of Galileo, activities related to exploitation of the system established under the Galileo programme and of the EGNOS system;
- a definition of the EU satellite navigation systems and programmes and of the services they will provide;
- a new governance framework that establishes a strict division of tasks between the Commission, the European GNSS Agency and the European Space Agency;
- provisions regarding procurements related to the programmes.

III. Work within Council bodies and with the European Parliament

The Working Party on Transport Intermodal Questions and Networks started the examination of the proposal under the Polish Presidency, in December 2011. This examination was pursued under the Danish Presidency and, at its meeting on 7 June 2012, the Transport, Telecommunications and Energy Council adopted a partial general approach² on the above proposal.

¹ The amount is expressed in 2011 constant prices.

² Considering that Article 10, which contains the proposal for an amount of EUR 7 billion to be allocated to Galileo, is currently being discussed in the framework of the negotiations on the MFF 2014-2020, it was agreed to exclude the examination of this Article. Therefore, the general approach reached on this draft Regulation could only be partial.

On 18 September 2012, the European Parliament Committee on Industry, Research and Energy (ITRE) discussed the Commission proposal and adopted 113 amendments contained in the draft report by Mr Marian-Jean Marinescu (EPP, RO), thus giving the rapporteur a mandate to start negotiations with the Council.

Under the CY Presidency, eleven meeting of the Working Party on Transport Intermodal Questions and Networks as well as one meeting of the Committee of the Permanent Representatives were devoted to the examination of this file. In parallel, the Cyprus Presidency initiated informal consultations with the European Parliament in view of a first reading agreement. Four informal technical meetings were organised to this purpose.

On the basis of the results of the above mentioned informal consultations and the examination of this dossier at the Working Party level, both the Presidency and the European Parliament prepared compromise text proposals.

It is important to stress the fact that the final outcome of the discussions on this draft Regulation is strictly linked to the outcome of the current discussions on the Multiannual Financial Framework (MFF) for the period 2014-2020. Therefore, any agreement concluded between the two co-legislators might be subject to revision.

IV. Results of the informal consultations with the European Parliament

During the informal consultations carried out by the Presidency, an agreement ad referendum could be reached on a number of amendments and/or compromise proposals relating to “technical” issues. The European Parliament could accept a significant part of the Council partial general approach.

However, in the course of these consultations, it became clear that for the European Parliament an acceptable agreement should include the following major issues:

- a) “Maximisation of the socio-economic benefits from the programmes through the development of applications”: the European Parliament considers that applications are the only way to show the citizens the socio-economic benefits they can obtain from Galileo and EGNOS and that it would not be worth to have a system up and running if it could not be used for services and related applications. Therefore, the European Parliament proposes to use part of the funds assigned to the programmes to finance the development of applications.

Linked to this issue is the “breakdown of activities and of the funds to be assigned to the programmes”: the European Parliament estimates that, in order to ensure transparency and accountability as regards the use of taxpayers’ money allocated to the programmes, activities and funds should be broken down in a clear and detailed manner, including the amount to be allocated to the financing of the development of applications.

- b) “Public governance of the Galileo and EGNOS programmes”: the European Parliament supports in general the Council approach as regards the principles for the governance of the programmes and considers that the EU GNSS Agency should play a crucial role to ensure the maximisation of the socio-economic benefits of the programmes.
- c) “Extension of the EGNOS coverage to candidate countries, third countries belonging to the Single European Sky and countries of the European Neighbourhood Policy”: the European Parliament attaches the utmost importance to such an extension and wants to reinforce the relevant provisions in the draft Regulation.

- d) “Delegated acts”: the European Parliament considers that a number of measures and requirements should be established and amended by the Commission using only the delegated acts procedure, in order to guarantee the full involvement of the European Parliament in the programmes.

Given the above, the Presidency, both at the level of the Working Party on Transport and Intermodal Questions and Networks and Coreper, as well as during the consultations with the rapporteur, has searched compromise text proposals on the above questions. It is the Presidency’s view that the positions of the two legislative branches are not too far apart. Compromises have been developed on several issues and the European Parliament has expressed its willingness to reach a compromise at first reading.

However, no agreement was possible on the three major outstanding issues and therefore the Presidency decided to submit them to the meeting of the Committee of Permanent Representatives on 21 November in order to obtain a “formal” mandate of negotiation, in view of an informal trilogue with the European Parliament, initially scheduled to take place on 28 November 2012.

V. Outstanding issues submitted to the Committee of Permanent Representatives

"Maximisation of the socio-economic benefits from the programmes through the development of applications" (Articles 2(1), 3, 7(1), 10 and explanatory recital)

In its initial proposal, the Commission did not foresee any funding for the development of applications, considering that the scope of this Regulation is the deployment and the exploitation of the systems. Furthermore, the main instrument to finance research and innovation activities related to the development of applications for Galileo and EGNOS is the Framework Programme for Research and Innovation Horizon 2020. The Council, in its partial general approach, did not amend the Commission proposal in this respect.

In the Working Party, several Member States favoured the inclusion of the development of applications within the scope of this Regulation. However, a number of Member States did not support such inclusion, fearing that it might endanger the adequate financing of the deployment and operation of the infrastructures. They pointed out that the financing of applications from the funds assigned to the programmes could reduce or put at risk the main source for the financing of applications, i.e. the Framework Programme for Research and Innovation Horizon 2020.

However, taking into account the utmost importance of this issue for the European Parliament, after having examined some compromise proposals from the Presidency and from the European Parliament, and in a spirit of compromise, a number of delegations could envisage the inclusion of a reference to the "maximisation of socio-economic benefits and the development of applications" subject to the following conditions:

- the amount of money to be allocated to applications should be clearly "capped";
- it should be clearly indicated in the text for what kind of applications (fundamental/essential) such an amount would be spent;
- the deployment and operation of the infrastructure established under the programmes should not be put at risk.

In order to cater for these concerns, the Presidency prepared a compromise proposal encompassing four Articles:

- a) Article 2 (1): the "maximisation of socio-economic benefits and the development of applications" has been included as part of the objectives of the programmes. An explanatory recital has been added to clarify the notion of "maximisation of socio-economic benefits", stating that the main instrument to finance research and innovation activities related to the development of applications is the Framework Programme for Research and Innovation Horizon 2020 and reiterating the priority Member States attach to the deployment and operation of the systems, thus their financing should not be put at risk. In addition, the recital clarifies that the scope of the activities to be funded should be limited to a very specific upstream part of research and development activities regarding fundamental elements such as Galileo-enabled chipset or receiver.

- b) Articles 3 and 4: these Articles have been redrafted in order to focus on the phases of the programmes and the related activities, i.e. on the tasks necessary to deploy and exploit the systems. A reference to the development of applications has been included in Article 3 also highlighting that the deployment and exploitation of the systems are a priority and that there will be no risk to the infrastructure.
- c) Article 7: this Article, regarding the activities to be financed by the funds assigned to the programmes, has been modified in order to include the development of "fundamental applications" such as Galileo-enabled chipsets and receivers, as requested by Member States.
- d) Article 10: a provision has been included in order to set a maximum ceiling for the financing of the development of "fundamental" applications, as requested by Member States. Furthermore, the Presidency proposes a breakdown by activity of the funds assigned to the programmes, for the sake of transparency and in a spirit of compromise towards the European Parliament for which an agreement on this draft Regulation is subject to the acceptance by the Council of a breakdown of the funds.

"Delegated acts and implementing acts" (Articles 5, 6, 8, 13(3) (a) to (f), 13(4), 14(2) 26 and 34)

The initial proposal of the Commission foresaw the recourse to delegated acts in two fields:

- a) In Article 5 for the establishment of technical requirements and standards necessary to ensure the compatibility and interoperability of Galileo and EGNOS with other satellite navigation systems and conventional means of radio navigation.
- b) In Article 14 for the establishment of technical requirements and standards necessary to ensure the security of the systems and their operation.

In its partial general approach, the Council opposed the use of delegated acts in both cases and decided to replace them with implementing acts. Furthermore, the Council agreed to recur to implementing acts for a number of Commission's tasks (Article 13(3) and 13(4)).

The European Parliament accepts the initial proposal from the Commission and adds the recourse to delegated acts for the establishment of a framework for intellectual property rights (Article 6(2)(a)), for certain tasks to be performed by the Commission (Article 13(3)) and for the adoption of the multiannual work programme (Article 26(1)).

Public governance of the programmes (Articles 12a, 13, 14, 15 and 16)

In order to meet the concerns expressed by the European Parliament, the Presidency has formulated a compromise proposal and modified the Council partial general approach. However, although the positions of the European Parliament and of the Council are not far apart, it was not yet possible to find a compromise acceptable to both parties.

VI. Outcome of the Committee of the Permanent Representatives meeting

On 21 November 2012, the Committee of the Permanent Representatives could not give a flexible mandate to the Presidency to provide for the inclusion in the Regulation of the “maximisation of the socio-economic benefits from the programmes through the development of applications”. Although several Member States could support the Presidency proposal, a substantial number of other Member States expressed their reservations, in particular given that the outcome of the current discussions on the Multiannual Financial Framework 2014-2020 and the final amount that will be assigned to Galileo and EGNOS are still pending.

Concerning the issue of delegated/implementing acts, the Committee of the Permanent Representatives acknowledged that this is a horizontal issue, closely linked to the final outcome of the negotiations, and therefore decided to maintain the Council's position expressed in its partial general approach and reiterated by the Working Party. However, some Member States could already show some flexibility on this issue.

As regards the public governance of the programmes, a wide majority of Member States could give a flexible mandate to the Presidency, in order to seek for further clarifications and find a compromise acceptable to all parties involved.

In the light of the above, and taking into account that the 2014-2020 Multiannual Financial Framework is still under discussion, the EP rapporteur and the Chair of the Committee of Permanent Representatives have decided, by mutual agreement, to postpone the informal trilogue foreseen to take place on 28 November.

VII. Conclusions

The Council is therefore invited to take note of the content of this Report with a view to inviting the Council preparatory bodies to pursue the negotiations with the European Parliament in order to reach an agreement on this file as soon as possible.
