

Joint Undertaking to develop the new generation European air traffic management system (SESAR): legal status

2008/0159(CNS) - 23/07/2008 - Legislative proposal

PURPOSE: to revise the legal status of the SESAR Joint Undertaking (SJU).

PROPOSED ACT: Council Regulation.

BACKGROUND: Article 171 of the Treaty establishing the European Community provides for the establishment of Joint Undertakings (JU) to allow for the establishment of public-private sector partnerships in the field of research, technological development and demonstration programmes. In February 2007 the Council approved legislation setting up the SESAR Joint Undertaking (SJU) the specific purpose of which is to modernise the air traffic management system of the EU. This is a huge RT&D project, comparable to the equally ambitious GALILEO project, and involves both public and private funding.

Joint Undertakings, however, lack a complete definition regarding their legal status, which is somewhere between a Community body and a private company. This has given rise to many difficulties in terms of setting up their legal and administrative structure, which must comply with Community requirements as well as those of the hosting State. Further, the Regulation setting up the [SESAR](#) JU is ambiguous regarding VAT and excise duty exemption.

Since the approval of the SJU, four other Joint Undertakings (also based on Article 171 of the TEU) have been approved namely:

- [CLEAN SKY](#);
- [ENIAC](#) (Nanotechnology);
- [IMI](#) (Innovative Medicines Initiative);
- [ARTEMIS](#) (embedded computers).

These new entities are comparable to the SJU in that they also carry out and manage large public-private RT&D projects. Where they differ, however, is in the form of their legal status. Unlike the SJU, their basic legal acts clearly define their status as Community bodies - a status which awards them a number of privileges and obligations.

CONTENT: based on the above, the purpose of this proposal is to amend the Regulation setting up the SJU in order to award it the same legal standing as that enjoyed by the four recently approved JU's. Concretely speaking the amendments will,

- recognise the SJU as a Community body;
- apply the Staff Regulations of the European Communities, the conditions of employment of other servants of the Community and the rules adopted jointly by the Community institutions, to SJU staff;
- apply the Protocol on Privileges and Immunities of the European Communities to the SJU, to its staff and to the Executive Directive;

- adopt provisions on jurisdiction of the Court of Justice;
- quantify the Community's contribution and proactive arrangements for its transfer to the SJU;
- amend provisions concerning the modification of the SJU Statutes;
- apply Article 185 of the Financial Regulations;
- adopt procedures for the appointment of the Executive Director;
- adopt provisions concerning the protection of Community financial interests; and
- apply transitional provisions for the changeover of SJU staff to EU staff regulations.

The total estimated Community contribution to the development phase of SESAR has been fixed at a maximum of **EUR 700 million** coming in equal parts from the 7th R&D Framework Programme and the Trans-European Network programme (2007-2013). These programmes will finance the administrative and operational costs of the SJU in accordance with their respective rules. The proposed revisions of the SESAR Regulation will not affect the estimated amount mentioned. However, a revised financial statement is attached to the present proposal in order to update the budgetary forecast of the SJU in light of the project's development.