Setting up the European GNSS Agency

2009/0047(COD) - 16/06/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a legislative resolution setting out its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1321 /2004 on the establishment of structures for the management of the European satellite radio-navigation programmes. The amendments made in plenary are the result of a compromise between Parliament and Council and these amendments modify the Commission's proposal as follows :

Name and repeal of Regulation 1321/2004: the text now states that the act sets up the European GNSS Agency (rather than "Authority".) Members state that the act must also repeal Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes (rather than amending it as the Commission had proposed) and amend Regulation (EC) No 683/2008.

Tasks: the tasks of the Agency shall be as set out in Article 16 of Regulation (EC) No 683/2008. The text states that it is important to modify the tasks of the Agency, and, in this regard, to ensure that its tasks are defined in conformity with those set out in Article 16 of Regulation (EC) No 683/2008, including the possibility for the Agency to accomplish other activities that may be entrusted to it by the Commission, in order to support the Commission in the implementation of the GNSS programmes. In accordance Council Regulation 1605/2002 on the Financial Regulation, such activities could for example include following the development of coordination and consultation procedures on security-related matters, carrying out research of benefit to the development and promotion of the European GNSS programmes and providing support in the development and implementation of the Public Regulated Service (PRS) pilot project.

Bodies: the bodies of the Agency shall be the Administrative Board, the Security Accreditation Board for European GNSS systems and the Executive Director. They shall accomplish their tasks in accordance with the guidelines given by the Commission as set out in Article 16 of Regulation (EC) No 683/2008.

Administrative Board: Members amended these provisions which now state that the Administrative Board shall be composed of one representative appointed by each Member State, five representatives appointed by the Commission and a non-voting representative appointed by the European Parliament. The duration of the term of office of the Board members shall be five years. The term of office may be renewed for a maximum of five years. A representative of the HR and a representative of the ESA shall be invited to attend the Administrative Board's meetings as observers. Each Member State and Commission representative shall have one vote. Decisions based on provisions regarding the adoption of the work programme and disciplining of the Executive director must not be adopted without a positive vote of the representatives of the Commission.

Tasks of the Administrative Board: the Administrative Board will ensure that the Agency carries out the work entrusted to it, under the conditions set out in the Regulation, and take any necessary decision to this end. In respect of security accreditation tasks and decisions provided for in Chapter II, the Administrative Board shall be responsible only for resources and budgetary matters. The task of the Board now also include overseeing the operation of the Galileo security center (referred to as the"Galileo Security Monitoring Centre" or "the GSMC") as referred to in Article 16(a)(ii) of Regulation (EC) No 683/2008.

Chapters II and III: the text now has a new Chapter to the regulation, entitled “Aspects relating to the security of the EU or the Member States.” It comprises provisions on joint action. The new Chapter III is entitled “Security accreditation for European GNSS systems” and includes clauses on the general principles, the Security Accreditation Board, and the role of Member States.

In the recitals, the text states that the Agency's Administrative Board should be empowered to take any decision which may ensure that the Agency can accomplish its tasks with the exception of the accreditation tasks, which should be entrusted to the Security Accreditation Board, and in respect of which the Administrative Board will be responsible only for resource and budget matters. Sound governance of the programmes requires also that the tasks of the Administrative Board be compliant with the new missions assigned to the Agency by virtue of Article 16 of Regulation (EC) No 683/2008, notably regarding the functioning of the Security Monitoring Centre and the instructions given pursuant to Council Joint Action 2004/552/CFSP on aspects of the operation of the European satellite radio-navigation system affecting the security of the EU.

Joint Action: the clause specifies that in accordance with Article 13(4) of Regulation (EC) No 683/2008, whenever the security of the Union or the Member States may be affected by the operation of the systems, the procedures set out in Joint Action 2004/552/CFSP shall apply. The security accreditation decisions taken pursuant to Chapter III, as well as the residual risks identified, shall be communicated by the Commission to the Council for information.

Security accreditation for European GNSS systems (General Principles): Parliament sets out eight general principle, stressing collective responsibility and consensus. It notes that in application of the principle of subsidiarity, security accreditation decisions should, following the process defined in the security accreditation strategy, be based on local security accreditation decisions taken by the national security accreditation authorities of the respective Member States.

Security Accreditation Board: as regards the European GNSS systems, this body shall have the tasks of the security accreditation authority, as referred to in the relevant security rules applicable to the Council and the Commission. The Board shall perform the tasks entrusted to the Agency with regard to security accreditation under Regulation (EC) No 683/2008 and take "security accreditation decisions" as provided for in this provision, in particular on the approval of the security accreditation strategy and of satellite launches, the authorisation to operate the systems in their different configurations and for the various services, the authorisation to operate the ground stations and in particular the sensor stations located in third States, as well as the authorisation to manufacture the receivers containing PRS technology and their components.

The security accreditation of systems by the Board shall consist of the establishment of the compliance of the systems with the security requirements referred to in Article 13 of Regulation (EC) No 683/2008 and in accordance with the relevant security rules and regulations applicable to the Council and the Commission. On the basis of the risk reports (referred to below), the Board shall inform the Commission of its risk assessment and provide advice to the Commission on residual risk treatment options for a given security accreditation decision. The decisions of the Board shall be addressed to the Commission. The Board shall be composed of one representative per Member State, one representative from the Commission and one from the HR. A representative of ESA shall be invited to attend Board meetings as an observer.

The Board shall set up special bodies, under itself, to deal with specific issues, acting on its instructions. In particular, while ensuring necessary continuity of work, it shall set up: (i) a Panel to conduct security analysis reviews and tests to produce the relevant risk reports in order to assist it in preparing its decisions; (ii) a Crypto Distribution Authority (CDA) to assist the Committee in particular for questions related to flight keys.

If a consensus according to the general principles cannot be reached, the Board shall take decisions on the basis of majority voting. The representative of the Commission and the representative of the HR shall not vote. The Chairperson of the Board shall sign, on behalf of the Board, the decisions adopted by the Board.

The Commission shall keep the European Parliament and the Council informed, without undue delay, about the impact of the adoption of the accreditation decisions on the proper conduct of the programmes. If the Commission considers that a decision taken by the Board may have a significant effect on the proper conduct of the programmes, for example in terms of costs and schedule, it shall urgently inform the European Parliament and the Council. Taking into account the views of the European Parliament and of the Council, which should be expressed within one month, the Commission may adopt any adequate measures in accordance with Regulation (EC) No 683/2008.The Administrative Board shall be regularly kept informed about the evolution of the work of the Security Accreditation Board.

Lastly, the timetable for the work of the Board shall respect the GNSS work programme of the Commission.

Role of Member States: Member States shall (i) transmit to the Board all information they consider relevant for the purposes of security accreditation;(ii) permit duly authorised persons appointed by the Board to have access to any classified information and to any areas/sites related to the security of systems falling within their jurisdiction, in conformity with their national laws and regulations, and without any discrimination on ground of nationality, including for the purposes of security audits and tests as decided by the Board; (iii) each be responsible for devising a template for access control, which is to outline or list the areas/sites to be accredited, and which shall be agreed in advance between the Member States and the Board, thereby ensuring that the same level of access control is being provided by all Member States; and (iv) be responsible, at local level, for the accreditation of the security of areas that are located within their territory and form part of the security accreditation area for European GNSS systems, and report, to this end, to the Board.

Evaluation: by 2012 at the latest, the Commission shall evaluate the Regulation, particularly as regards the Agency’s tasks, and, if necessary, make proposals.