Global navigation satellite system (GNSS): rules for access to the public regulated service

2010/0282(COD) - 08/10/2010 - Legislative proposal

PURPOSE: to lay down the detailed rules under which the Member States, the Council, the Commission, the European Union agencies and international organisations may access the public regulated service (PRS) offered by the global navigation satellite system (GNSS) established under the Galileo programme.

PROPOSED ACT: Decision of the European Parliament and of the Council.

BACKGROUND: Regulation (EC) No 683/2008 lays down the conditions for the further implementation of the two European satellite navigation programmes (EGNOS and Galileo). It provides that the system to be established under the Galileo programme will offer five services, including a "public regulated service" (PRS), restricted to government-authorised users, for sensitive applications which require a high level of service continuity. They specify that the PRS uses strong, encrypted signals.

The PRS is a service to which the general public will not have access and which is restricted exclusively to the Council, the Commission, Member States and, where appropriate, duly authorised European Union agencies, non-member countries and international organisations. Its use must be monitored for safety and security reasons, unlike the other unsecured services which will be offered by the two European GNSS systems.

It is therefore essential to monitor users by means such as establishing an authorisation procedure, using encryption keys, receiver approval, etc. Moreover, certain applications of the service may be politically and strategically very sensitive. The characteristics of the PRS as a whole necessitate a precise legislative definition of the detailed rules for access to the PRS.

Furthermore, in its conclusions adopted on 12 October 2006, the Transport Council asked the Commission to actively pursue its work on the drawing up of the PRS access policy and to present its proposals in due time for the Council's deliberation and approval.

IMPACT ASSESSMENT: although it has not formally been the subject of an impact assessment, the draft text is nonetheless the result of very thorough preparatory work which closely involved the various stakeholders interested in the PRS, particularly the Member States, which will be the key participants in this service.

The various matters relating to the detailed rules for access to the PRS were carefully discussed by the Security Board, known as the GSB, which was established under Council Regulation (EC) No 876/2002 and repealed under Regulation (EC) No 683/2008. It should crucially be underlined that during the preparatory work carried out by the GSB, the whole range of different possible schemes was carefully considered:

take no action;

- no monitoring of PRS users by the Member States. This option would also have been incompatible with the high level of security required for the PRS. It could not be considered in view of the sensitivity of the subject and its security implications for the Member States and the European Union;

- entirely centralised management at European Union level of all authorisation standards and procedures, approval and monitoring relating to the detailed rules for access to the PRS, in particular manufacture of receivers and distribution of access-protection keys;
- conversely, entirely decentralised management of the same components at Member State level.

Under the scheme adopted, the **technical functions directly connected to the infrastructure are centralised at European level** through the activities of the security centre used by the European GNSS Agency; **conversely, the participant supervisory functions are decentralised at national level** in order to take account of local constraints.

The Decision which is the subject of this proposal is likely to have an impact on the Member States, European Union bodies, international organisations and non-member countries and industrial companies. The many discussions which have taken place since 2007 within the various bodies responsible for the security of the programmes and systems have merely confirmed the **consensus** on the various solutions chosen in the draft.

It is important to remember that, in view of their sensitive nature, matters relating to use of the PRS involve not only system security but also the security of the Member States themselves. It has for that reason proved to be politically and practically impossible for the Member States to reach a consensus on the options selected. Recourse to Joint Action 2004/552/CFSP, which falls under the unanimity rule, is furthermore explicitly provided for by the draft in any cases where the security of the European Union and its Member States could be undermined.

LEGAL BASIS: Article 172 of the Treaty on the Functioning of the European Union (TFEU). Although the text may have implications for the Common Foreign and Security Policy, it must nonetheless be adopted under the procedures provided for under the TFEU pursuant to the Court of Justice's case law resulting from the Judgment of 20 May 2008, C-91/05 (Commission of the European Communities v. Council of the European Union), known as "*Small arms*".

CONTENT: this draft Decision lays down the detailed rules under which the Member States, the Council, the Commission, the European Union agencies and international organisations may access the public regulated service (PRS) offered by the global navigation satellite system (GNSS) established under the Galileo programme.

It contains the following key measures:

- general principles on the detailed rules for access to the PRS, in particular the fact that the Council, the Commission and the Member States have unlimited, uninterrupted access to the PRS anywhere in the world, while an agreement would be required to grant access to the PRS to European Union agencies, non-member countries and international organisations;
- the requirement for PRS participants to designate a "Competent PRS Authority" to manage and monitor manufacture, ownership and use of PRS receivers, and the establishment of minimum common standards to which the competent PRS authorities must comply;
- the establishment of a framework of conditions for the manufacture and security of PRS receivers;
- provisions on export control, control centres worldwide, and the implementation of joint actions under the “second pillar”.

BUDGETARY IMPLICATIONS: the Commission's proposal has no direct negative impact on the European Union budget; in particular, it does not commit the European Union to any new policy and the various EU supervisory bodies to which it refers have already been established by means of other texts.