COMMISSION IMPLEMENTING DECISION (EU) 2023/1055

of 30 May 2023

setting out the rules on the sharing and prioritisation of satellite communication capacities, services, and user equipment to fulfil the function referred to in Article 66(2) of Regulation (EU) 2021/696 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU [1] and in particular Article 66(2) thereof,

Whereas:

(1) Article 62 of Regulation (EU) 2021/696 provides that under the GOVSATCOM component, satellite communication capacities and services shall be combined into a common Union pool of satellite communication capacities and services, with appropriate security requirements.

(2) Pursuant to Article 66(2) of Regulation (EU) 2021/696 the Commission is to adopt, by means of implementing acts, the detailed rules on the sharing and prioritisation of satellite communication capacities, services, and user equipment, taking into account expected demand for the different GOVSATCOM use-cases, the analysis of security risks for those use-cases and, where appropriate, cost-efficiency.

(3) The sharing and prioritization should provide fair and optimized use of the available GOVSATCOM resources, tailored to the needs of each participant. In order to ensure the best match between supply and demand for GOVSATCOM services, there is a need to base the availability of services on the supply and demand of pooled and shared satellite capacities and services procured.

(4) Resources of resource providers should be pooled into a Common Union pool. The sharing and prioritization should provide mechanisms for the allocation of services to participants according to their needs for GOVSATCOM services. Therefore, the Common Union pool should be divided into a fixed allocation and a dynamic allocation. Guaranteed provision of services is supported through fixed allocation of services per participant, while unplanned needs are supported through dynamic allocation of services. A volume of resources should be included as crisis margin in the Common Union Pool, in order to support the provision of services for unplanned, urgent and high priority needs of any participant.

(5) The sharing and prioritization should support different priorities of participant requests for GOVSATCOM services and implement appropriate mechanisms for their processing. A GOVSATCOM services compensation mechanism should be foreseen in order to facilitate the efficient use of resources and avoid market distortions. To that effect, a system of tokens should be established with compensation values based on the level of priority of the requests. The possibility for buying additional tokens or donating tokens to another participant should also be foreseen.

(6) The total number of tokens available based on the available budget should be divided in the Member States' total share, the EU institution's share and a crisis margin.

(7) The pooled resources should be allocated to services according to the service requests of participants that reach the GOVSATCOM hub. To that effect each participant should determine the relevance of its users and the criticality of its request.

[1] OJ L 170, 12.5.2021, p. 69.

(8) To ensure the smooth processing of service requests the GOVSATCOM hub should perform matchmaking of the service request with the resources of the pool. In cases where service requests cannot be matched with the available resources of the pool a conflict resolution mechanism should be foreseen.

(9) The measures provided for in this Decision are in accordance with the opinion of the committee established under Article 107 of the Regulation (EU) 2021/696,

HAS ADOPTED THIS DECISION:

Article 1

Scope

(1) This Decision set outs the GOVSATCOM sharing and prioritization rules for the inclusion of resources to a Common Union Pool and the sharing of services among the participants.

(2) This Decision applies to the GOVSATCOM services as defined in the Commission Implementing Decision (EU) 2023/1054 ([2]). Users interact with the GOVSATCOM Hub through the respective competent GOVSATCOM authority (CGA).

Article 2

Definitions

(1) *Allocated resource*: A resource allocated to a service for specific time period, according to the relevant service request.

(2) *Available resource*: A resource which is not allocated to a service for specific time period.

(3) *Common Union pool or pool*: The pool of resources which are made available to GOVSATCOM through contracts or agreements with resource providers.

(4) *Compensation:* Payment mechanism based on tokens.

(5) *Competent GOVSATCOM Authority (CGA):* The entity designated by a participant in accordance with Article 68(4) of Regulation (EU) 2021/696 to perform the tasks referred to in Article 68(5).

(6) *Conflict*: The situation where the volume of a certain resource in the pool is lower than the aggregated volume needed by service requests for a specific time period; thus, service requests conflict over the same resource.

(7) *Crisis margin*: The resources of the pool which remain available for dynamic allocation in case of high priority request(s) for which no matching and available resources are found in the other parts of the pool.

(8) *Dynamic allocation*: The allocation of services and resources to a participant according to its users' service requests which are issued during a Pool Programming Term (PPT).

(9) *Fixed allocation*: The allocation of services and resources for the whole PPT according to the expressed plan of each participant, before the starting date of the PPT.

(10) *GOVSATCOM services or services*: The services included in the GOVSATCOM service portfolio.

([2]) Commission Implementing Decision (EU) 2023/1054 of 30 May 2023 laying down rules for the application of Regulation (EU) 2021/696 of the European Parliament and of the Council as regards the service portfolio for the Governmental Satellite Communications services offered by the system established under the Union Space Programme (see page 49 of this Official Journal).

(11) *GOVSATCOM Hub services*: The services which are provided by the GOVSATCOM Hub to support the operation of the GOVSATCOM system. GOVSATCOM Hub services support, such as the selection, the booking, the establishment, the provision of GOVSATCOM services, the allocation and the deallocation of resources etc. and which are not included in the GOVSATCOM service portfolio.

(12) *GOVSATCOM system*: The system which includes the GOVSATCOM Hub(s), the GOVSATCOM Security Monitoring Infrastructure, the interfaces between the GOVSATCOM Hub(s) and the Competent GOVSATCOM Authorities, the interfaces between the GOVSATCOM Hub(s) and the resource providers, and any other EU-owned infrastructure necessary to enable the provision of satellite capacities and services pooled and shared by resource providers and made available to GOVSATCOM users.

(13) *Participant's account*: The account of the participant which holds its tokens.

(14) *Participant share*: The share of pool's resources corresponding to a GOVSATCOM participant. The share is expressed in tokens.

(15) *Pool Programmatic Term (PPT)*: The fixed time period for which contracts or agreements have been concluded between the Commission and resource providers for the inclusion of their resources to the Common Union pool.

(16) *Pre-Emption*: The drop, interruption or downgrading of a service due to conflict resolution.

(17) *Resource*: Satellite communication capacity, service, asset, user equipment used for the provision of services identified in the Service Portfolio Implementing Acts [ref.] which are allocated to the GOVSATCOM participants in the form of services.

(18) *Resource provider*: An entity referred to in Article 64 of Regulation (EU) 2021/696 providing resources to the Common Union pool, through contracts or agreements with the Union, which owns and/or operates the space systems and the associated ground segment and networks.

(19) *Resource request*: The request issued by the GOVSATCOM Hub to a resource provider with the purpose to allocate/deallocate pooled resources.

(20) *Service request*: The request issued by a CGA to the GOVSATCOM Hub with the purpose to confirm availability of resources and proceed to their allocation for the provision of a service.

(21) *Token*: The unit used for payment (compensation) of GOVSATCOM Services.

Article 3

Common Union Pool

(1) GOVSATCOM services shall be made available to participants by the inclusion of resources of resource providers in a pool.

(2) The resources of the pool shall be made available through contracts or agreements concluded between the Commission and resource providers during one Pool Programmatic Term (PPT) for each of the parts of the pool.

(3) The pool shall consist of four (4) parts:

(a) fixed allocation part which includes the resources for the provision of fixed allocation services to the participants in accordance with Article 6;

(b) dynamic allocation pre-paid part which includes the resources for the provision of services requested through the pre-paid dynamic allocation mechanism in accordance with Articles 7 and 8;

(c) dynamic allocation on-demand part which includes the resources for the provision of services requested through the on demand dynamic allocation mechanism in accordance with Articles 7 and 8;

(d) crisis margin part which includes resources for the provision of services in case of dynamic high priority requests when the resources of other parts of the pool are not sufficient, in accordance with Article 7.

(4) The Commission shall communicate to the participants their shares, the available services and related attributes for the next PPT along with their values in tokens, the latest 30 weeks before the starting date of the PPT.

(5) The first PPT shall start at the entry into service of the GOVSATCOM hub, and its duration shall be of two years. Once a PPT expires, another PPT shall start for the same duration.

Article 4

GOVSATCOM services compensation, tokens and accounts

(1) GOVSATCOM services shall be shared and prioritised between users through the form of a compensation using tokens.

(2) The basis compensation value of a service shall be the sum of the compensations which are given to the resource providers to make available the needed resources for the provision of the service with the specific attributes and duration indicated in the respective service request. The compensation value of a service shall be a) 80 % of its basis compensation value in case of low priority requests, b) 100 % of its basis compensation value in case of medium priority requests c) 130 % of its basis compensation value in case of high priority requests.

(3) Each participant shall have its participant account which holds its tokens. Each participant account shall be split in two parts: a) the pre-paid and b) the pay-on-demand parts, which are used for the compensation of services requested using dynamic allocation pre-paid or pay-on-demand mechanisms respectively.

The splitting of participant's tokens in each part of the account shall be set by the participant before the starting date of the PPT referred to in Article 6 and the tokens shall not be transferred from one part to the other during the PPT.

The remaining tokens in the pre-paid part of the account shall be cleared at the end of the PPT according to paragraph 6.

The GOVSATCOM hub maintains participants' accounts.

(4) During a PPT a participant may use euros to buy additional tokens through the Commission according to the conversion ratio of tokens to euros defined for that PPT.

The Commission shall inform the GOVSATCOM hub and the additional tokens shall be added to the pay-on-demand part of the respective participant account.

(5) A participant may donate tokens from its account to another participant.

The transfer of the tokens from one participant's account to another shall be requested from the donating participant's CGA to the GOVSATCOM hub and the acceptance of the donation from the CGA of the receiving participant.

Tokens shall be transferred from the same part of the donating participant account (the pre-paid or on demand part) to the same part of the receiving participant's account.

A participant may donate tokens from its share for fixed allocation of services in accordance with Article 6 to another participant, informing the Commission.

(6) The number of tokens available for each participant in the pre-paid part of its account shall be cleared at the end of the PPT and the number of tokens in the pre-paid part of all participants' accounts shall be set to zero.

(7) Each resource provider shall receive compensation in euros for each successfully delivered service using its resources, according to its agreement or contract with the Commission.

Article 5

Participants' shares

(1) The Commission shall define the total number of tokens to be distributed for the next PPT according to the available budget and to the conditions of the contracts and agreements referred to in Article 3(2). These tokens shall be made available to the GOVSATCOM participants in accordance with the rules established in paragraphs 2 to 5.

(2) The total number of tokens shall be divided in three parts:

(a) the *Member States total share*, which is set to 75 % of the total number of tokens;

(b) the *Crisis margin*, which is set to 10 % of the total number of tokens;

(c) the *EU institutions total share* which is set to 15 % of the total number of tokens.

(3) The *Member States total share* shall be further divided into the shares of the Member States. Each Member State shall receive a percentage (in tokens) of the Member States total share proportional to the number of its votes in the Council. The number of tokens received by each Member State shall be the participant share for the respective Member State for the next PPT.

If a Member State has not nominated its competent GOVSATCOM authority at least 32 weeks before the starting date of the PPT its tokens shall be distributed among the Member States which have nominated their CGA pro rata their share.

(4) The *EU institutions total share* shall be further divided into the shares of EU institutions. Each EU institution shall receive a percentage (in tokens) of the EU institutions total share according to the *EU institution sharing plan* to be defined by the Commission for each PPT. The number of tokens received by each EU institution shall be the participant share for the respective EU institution for the next PPT.

If an EU institution has not nominated its competent GOVSATCOM authority at least 32 weeks before the starting date of the PPT its tokens shall be distributed among the EU institutions which have nominated their CGA pro rata their share in the EU institution sharing plan.

(5) The tokens of each participant share for a new PPT shall be added to the tokens which may have been left in the respective participant's account pay-on-demand part at the end of the previous PPT. Before this addition, the remaining tokens in participant's account pay-on-demand part shall be converted to tokens for the new PPT according to the conversion ratio of tokens to euros for the new PPT.

Article 6

Resources for fixed allocation of services

(1) Each participant shall select the services to be allocated to it through fixed allocation. The aggregate value of the selected services shall not exceed the number of tokens of its account.

On this basis, the participants shall prepare a plan consisting of:

(a) the service requests for the selected services; and

(b) the splitting of participant's remaining tokens into the pre-paid and the pay-on-demand parts of its account.

The plan shall be sent by the participant to the GOVSATCOM hub, the latest 20 weeks before the starting date of the PPT.

(2) On reception of the plans referred to in paragraph 1, the GOVSATCOM hub shall aggregate the resources which are needed for the requested services and communicate them to the Commission the latest 18 weeks before the starting date of the PPT.

The Commission shall conclude the respective contracts or agreements with the resource providers for the resources needed for fixed allocation of services.

The Commission shall communicate the contracts and agreements with the resource providers to the GOVSATCOM Hub the latest 10 weeks before the starting date of the PPT.

The GOVSATCOM hub shall assess the availability of the resources needed for fixed allocation of services and in case some of the requested services cannot be provided due to lack of sufficient resources from the resource providers or any other reason, the GOVSATCOM hub shall drop the respective service request in accordance to Article 11(4).

The tokens related to the dropped service shall remain for use in the dynamic parts of the account of the affected participant.

(3) The GOVSATCOM hub shall inform the participants for the services that will be made available to them through fixed allocation and according to the plan of each participant at the latest 6 weeks before the starting date of the PPT.

The number of tokens of each participant shall be decreased by the total value of the services which have been made available to this participant through the fixed allocation mechanism and the number of tokens remaining in the participant's account is communicated to each participant.

(4) Following the conclusion of the contracts or agreements for fixed allocation of services and their enter into force, the respective resources shall be included in the corresponding part of the pool.

Article 7

Resources for dynamic allocation of services and crisis management part

(1) The remaining number of tokens in the participant's account maybe used by the participant to issue service requests for dynamic allocation of services. Each participant shall define the split of its remaining tokens to the pre-paid and on-demand parts of its account, the latest 4 weeks before the starting date of the PPT, and shall inform the GOVSATCOM hub.

(2) The contracts or agreements with providers referred to in Article 3(2) shall include resources in the Common Union pool to be made available through the dynamic allocation pre-paid mechanism during the PPT.

(3) The contracts or agreements with providers referred to in Article 3(2) shall also include resources in the pool that are reserved in case of crisis ('*crisis margin*'). The use of such resources shall be reserved to request(s) issued with high priority in accordance with Article 9 for which no matching and available resources are found in the other parts of the pool.

(4) Following the conclusion of the contracts or agreements for dynamic allocation of services and subject to the provisions of paragraph 7, the respective resources shall be included in the corresponding parts of the pool. The total value of these contracts or agreements shall not exceed the total number of tokens available for crisis margin and pre-paid dynamic allocation of services during the PPT.

(5) The Commission shall take into account the services which have been requested by the participants for fixed allocation, for the selection of resources which shall be included in the pool for pre-paid dynamic allocation and crisis margin.

(6) The Commission shall conclude contracts or agreements with resource providers for the inclusion of resources to the dynamic allocation on-demand part of the pool through the dynamic allocation pay-on-demand mechanism. Such contracts or agreements may be concluded also during the duration of the PPT.

(7) Following the conclusion of the contracts or agreements referred in paragraphs 2 and 3 the resources shall be included in the dynamic allocation pre-paid part, dynamic allocation on-demand part, and crisis margin part of the common Union pool, upon the entering into force of the respective contract or agreement between the Commission and the respective resource provider.

(8) Resources shall be excluded from the common Union pool upon the termination of the respective contract or agreement.

Article 8

Activation of the dynamic allocation services

(1) During a PPT each CGA may request services using the dynamic allocation mechanism.

(2) The dynamic allocation of services shall be performed through the issuance of service requests in accordance with Articles 9 and 10. The service requests for the dynamic allocation of services shall be made through either a pre-paid service request or a pay-on-demand service request.

(3) Each CGA shall define the proportion between the pre-paid and the pay-on-demand parts of the tokens assigned to the dynamic allocation services prior to the beginning of each PPT.

(4) The service requests shall be issued by the CGA of the participant towards the GOVSATCOM hub.

Article 9

Service requests

(1) Each participant shall determine the relevance of its users on the basis of a scale which goes from 0 to 2.

(2) Each user should determine the criticality of its request ([3]) on the basis of a scale which goes from 0 to 2 and shall inform its CGA accordingly.

(3) The priority of a service request shall be determined on the basis of user relevance and the criticality of the request. The priority score is determined by the product of the relevance and criticality in accordance to the rule defined in the Annex.

(4) Every service request issued by the CGA to the GOVSATCOM hub shall include the priority score referred to in paragraph 3. The range of priority score shall be from zero (0) to four (4) and maps to three priority levels: i) low priority for priority score equal to zero, ii) medium priority for priority scores higher than zero and lower than four, iii) high priority for priority score equal to four.

Every dynamic allocation service request shall identify the sub-category to which it belongs: i) pre-paid or ii) pay-on-demand.

The service request shall also include the identifier of the respective participant.

(5) The sharing and prioritisation procedure and rules between GOVSATCOM users which are authorised by a same participant shall be determined by that participant and implemented by its CGA.

([3]) The Commission will make available a guidance document on the assessment of user relevance and the criticality of service requests.

(6) High priority service requests shall include a persistency option of 30 days. The processing of the high priority service requests with the activated persistency option follows the provisions of Article 10. As long as no resources have been allocated to the service request yet and the persistency option is activated, the GOVSATCOM hub performs regular match making of the service request against the available resources of the pool. In case new matching resources are found in the pool the GOVSATCOM hub updates the service proposal and forwards it to the user through the respective CGA.

(7) A CGA may request the cancellation of a dynamically allocated service by issuing a service cancellation request to the GOVSATCOM hub. The processing of the service cancellation request is performed according to Article 10(5).

Article 10

Service request processing

(1) Upon the reception of a service request, the GOVSATCOM hub shall assess its validity and completeness, in accordance with the provisions of Article 9 and Implementing Decision (EU) 2023/1054. The GOVSATCOM hub shall reject invalid or incomplete requests and the issuer shall be informed.

(2) The GOVSATCOM hub shall perform match making of the service request against the resources of the pool. The match making of dynamic allocation pre-paid service requests shall be performed with the resources of the dynamic allocation pre-paid part of the pool. The match making of dynamic allocation on-demand service requests shall be performed with the resources of the dynamic allocation on-demand part of the pool and the availability of resources shall be confirmed by the resource providers from the service activation date until the service deactivation date. The following cases shall be identified according to the results of match making:

(a) no matching resources found in the pool, the service request shall be rejected and the issuer shall be informed;

(b) matching and available resources are found in the pool, the available service options including their respective compensation values in tokens shall be forwarded as a service proposal from the GOVSATCOM Hub through the CGA to the user, for its ranking;

(c) all matching resources in the pool are allocated to prior service request(s). If the priority of the service request is low or medium, the service request shall be dropped and the issuer is informed. If the priority of the service request is high then the conflict resolution mechanism is activated in accordance with Article 11. If the conflict resolution mechanism returns matching resources, the issuer shall be notified according to paragraph (b); if no matching resources are found, the service request shall be dropped and the issuer shall be informed.

(3) The user shall rank the services options of the proposal in order of preference and shall submit them to the GOVSATCOM Hub through the respective CGA for the allocation of the corresponding resources.

In case of an invalid selection, the service request shall be rejected and the issuer shall be informed.

(4) Subject to the availability of sufficient tokens in the pre-paid or pay-on-demand part of participant's account according to the sub-category of the dynamic service request, the GOVSATCOM hub shall issue a resource request to the resource provider of the highest ranked service option of the service proposal, according to the ranking provided by the CGA.

In case of rejection of the resource request by the resource provider, the GOVSATCOM hub shall issue a resource request to the resource provider of the next preferred service option. The issuance of resource requests shall continue until the confirmation from a resource provider that the requested resources are available for allocation, or the rejection of all resource requests by the resource providers. Where a resource provider has confirmed that a resource is available, the GOVSATCOM hub shall proceed to the allocation of the resources and the subtraction of the value of the service from the tokens of the respective participant account. Where all resource requests are rejected by the resource providers the service request is dropped. In both cases the GOVSATCOM hub shall notify the issuer of the service request status.

(5) The GOVSATCOM hub upon the reception of a service cancellation request by a CGA, deallocates the resources which have been allocated for the provision of the service and makes them available to the pool. The participant may receive refund of the tokens used for the compensation of the resources, according to the terms and conditions agreed with the resource provider.

Article 11

Conflict resolution

(1) Conflict resolution shall be activated by the GOVSATCOM hub in order to resolve conflicts between requests with different priority scores as referred to in Article 9(2).

(2) If a high priority service request conflicts with one or more low priority service requests, and under the condition that the pre-emption of low priority service requests will free sufficient resources which match the high priority service request, the respective low priority service requests shall be marked for pre-emption and the relevant service options shall be included in the service proposal.

Subject to the ranking of the service options and the availability of tokens, the appropriate low priority service request(s) shall be dropped and the related active service(s) shall be pre-empted.

The CGA(s) whose service(s) are to be pre-empted are informed of the pre-emption as soon as possible after the decision on the pre-emption is made. The value of the pre-empted service for the time during which the service will not be available due to pre-emption shall be returned to the respective participant account and the participant shall be notified.

(3) In case the application of the procedure of paragraph 2 does not find matching resources, the GOVSATCOM Hub shall perform match making of the high priority service request with the resources of the crisis margin part of the pool. If matching and available resources are found, the relevant service options shall be included in the service proposal.

(4) In case of non-sufficient resources from resources providers for the provision of the requested services referred to in Article 6, the conflict resolution mechanism shall be based on the priorities of the service requests.

Where service requests of the same priority are conflicting, the priority shall be given to the service request that is the continuation of a service already provided to the requesting participant at the end of the previous PPT where applicable.

Where service requests of the same priority are conflicting and none of them is a continuation of an already provided service to the requesting participant, the GOVSATCOM hub shall compare the values of the conflicting services as percentage of the respective participant's share and give the priority to the service request corresponding to the higher percentage.

Article 12

Entry into force

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 30 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Table

Priority score as product of user relevance and criticality of service request

		User relevance		
		0	1	2
Criticality of service request	0	0 (LOW)	0 (LOW)	0 (LOW)
	1	0 (LOW)	1 (MEDIUM)	2 (MEDIUM)
	2	0 (LOW)	2 (MEDIUM)	4 (HIGH)