Council of the European Union

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Interinstitutional Files:
2025/0352 (NLE)
2025/0353 (NLE)

ESPACE 10
EEE 6
RECH 17
COMPET 48
IND 27
EU-GNSS 6
TRANS 18
AVIATION 9
MAR 8
TELECOM 17
MI 39
CSC 45
CSCGNSS 6
CSDP/PSDC 35
AELE 4

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Agreement between the European Union and the Kingdom of Norway laying down the rules for participation of the Kingdom of Norway in the GOVSATCOM component of the Union Space Programme and in the Union Secure Connectivity Programme, and for access to GOVSATCOM services and to the governmental services of the Union Secure Connectivity Programme

AGREEMENT
BETWEEN THE EUROPEAN UNION AND THE KINGDOM OF NORWAY
LAYING DOWN THE RULES FOR PARTICIPATION
OF THE KINGDOM OF NORWAY IN THE GOVSATCOM COMPONENT
OF THE UNION SPACE PROGRAMME
AND IN THE UNION SECURE CONNECTIVITY PROGRAMME,
AND FOR ACCESS TO GOVSATCOM SERVICES AND TO THE GOVERNMENTAL SERVICES OF THE UNION SECURE CONNECTIVITY PROGRAMME

THE EUROPEAN UNION (hereinafter the "Union")

and

THE KINGDOM OF NORWAY (hereinafter "Norway"),

hereinafter jointly referred to as the "Parties",

RECOGNISING Norway's participation in the Union Space Programme,

RECOGNISING the obligations of the Parties under international law,

RECALLING Regulation (EU) 2021/696 of the European Parliament and of the Council[1] (hereinafter referred to as the "Space Regulation") and Regulation (EU) 2023/588 of the European Parliament and of the Council[2] (hereinafter referred to as the "Secure Connectivity Regulation"),

[1] 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 (OJ EU L 170, 12.5.2021, p. 69, ELI: http://data.europa.eu/eli/reg/2021/696/oj).

[2] Regulation (EU) 2023/588 of the European Parliament and of the Council of 15 March 2023 establishing the Union Secure Connectivity Programme for the period 2023-2027 (OJ EU L 79, 17.3.2023, p. 1, ELI: http://data.europa.eu/eli/reg/2023/588/oj).

RECOGNISING that Norway is contributing financially to the activities resulting from the GOVSATCOM component of the Union Space Programme and from the Union Secure Connectivity Programme as laid down in a separate decision of the EEA Joint Committee amending Protocol 31, on cooperation in specific fields outside the four freedoms and in Protocol 37 to the Agreement on the European Economic Area,

RECOGNISING the importance of the Agreement on the European Economic Area as a legal and institutional basis to strengthen and broaden cooperation between the Union and Norway in the field of secure connectivity,

RECALLING the Agreement between the Kingdom of Norway and the European Union on security procedures for the exchange of classified information (hereinafter referred to as the "Security of Information Agreement") which was signed on 22 November 2004 and entered into force on 1 December 2004,

RECALLING the Security Arrangements for the protection of classified information exchanged between the Kingdom of Norway and the Union (hereinafter referred to as the "Security Arrangements"), agreed upon on 22 October 2004,

RECOGNISING that Council Decision (CFSP) 2021/698[1] sets out the responsibilities to be exercised by the Council and the High Representative of the Union for Foreign Affairs and Security Policy to avert a threat to the security of the Union or of one or more Member States or to mitigate serious harm to the essential interests of the Union or of one or more Member States or whenever the security of the Union or its Member States might be affected by the operation of the system or the provision of the governmental services, and that Decision (CFSP) 2021/698 is to apply as stipulated in Article 35 of the Space Regulation and Article 31 of the Secure Connectivity Regulation,

RECOGNISING Norway's interest in the GOVSATCOM component of the Union Space Programme and in services of the Union Secure Connectivity Programme,

WISHING to establish a bilateral agreement on Norway's participation in the GOVSATCOM component of the Union Space Programme and in the Union Secure Connectivity Programme,

HAVE AGREED AS FOLLOWS:

[1] Council Decision (CFSP) 2021/698 of 30 April 2021 on the security of systems and services deployed, operated and used under the Union Space Programme and the Union Secure Connectivity Programme which may affect the security of the Union, and repealing Decision 2014/496/CFSP (OJ EU L 170, 12.5.2021, p. 178, ELI: http://data.europa.eu/eli/dec/2021/698/oj).

ARTICLE 1

Purpose of the Agreement

1. This Agreement lays down the rules for the participation of Norway in the GOVSATCOM component of the Union Space Programme and in the Union Secure Connectivity Programme and for Norway's access to GOVSATCOM services and to the governmental services of the Union Secure Connectivity Programme.

2. Norway shall be a GOVSATCOM Participant and a Union Secure Connectivity Participant in so far as it authorises GOVSATCOM users and Union Secure Connectivity users of governmental capacities, or provides satellite communication capacities, ground segment sites or part of the ground segment facilities.

3. Rights granted under this Agreement shall be without prejudice to the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme. This Agreement shall not confer on Norway any decision-making power in respect of the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme.

4. This Agreement does not affect the legal framework and institutional structure of the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme established by Union law, the relevant Union acts incorporated into the Agreement on the European Economic Area or the measures taken for the implementation of the Union acts. In addition, this Agreement does not affect the applicable Union laws, regulations and policies implementing non-proliferation commitments and export control for dual-use items.

5. The Union shall be the owner of all tangible and intangible assets which form part of the governmental infrastructure developed under the GOVSATCOM component of the Union Space Programme and under the Union Secure Connectivity Programme, as provided in Articles 5(2) and 19(2) of the Secure Connectivity Regulation.

6. This Agreement shall not affect the rights and obligations of either Party under any other international agreement.

ARTICLE 2

Definitions

For the purposes of this Agreement, the following definitions apply:

(1) "token" means the unit used for the payment or compensation for GOVSATCOM services, as defined in Article 2 of Commission Implementing Decision (EU) 2023/1055[1];

(2) "control" means the ability to exercise a decisive influence over a legal entity directly, or indirectly through one or more intermediate legal entities;

[1] 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 (OJ EU L 141, 31.5.2023, p. 57, ELI: http://data.europa.eu/eli/dec_impl/2023/1055/oj).

(3) "executive management structure" means the body of a legal entity which is appointed in accordance with national law, and which, where applicable, reports to the chief executive officer or any other person having comparable decisional power, and which is empowered to establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making;

(4) "third country" means any country which is not Norway or any Union Member State or any other EEA EFTA State participating, as relevant, in the GOVSATCOM component of the Union Space Programme or in the Union Secure Connectivity Programme;

(5) "GOVSATCOM component of the Union Space Programme" or "GOVSATCOM" means the GOVSATCOM component established by the Space Regulation;

(6) "GOVSATCOM Participant" means a participant within the meaning of Article 68 of the Space Regulation;

(7) "Union Secure Connectivity Programme" means the programme established by the Secure Connectivity Regulation;

(8) "Union Secure Connectivity Participant" means a participant within the meaning of Article 11 of the Secure Connectivity Regulation.

ARTICLE 3

Scope of Cooperation

This Agreement governs the participation of Norway in the GOVSATCOM component of the Union Space Programme and in the Union Secure Connectivity Programme and the access of Norway to GOVSATCOM services and to the governmental services of the Union Secure Connectivity Programme.

ARTICLE 4

Participation in GOVSATCOM and in the Union Secure Connectivity Programme

Norway shall be a GOVSATCOM Participant and a Union Secure Connectivity Participant within the meaning of Article 68 of the Space Regulation and of Article 11 of the Secure Connectivity Regulation in that it authorises the users of GOVSATCOM services or of the governmental services of the Union Secure Connectivity Programme or provides capacities, sites or facilities.

The prioritisation of services covered by this Agreement between the users authorised by Norway shall be determined and implemented by Norway.

ARTICLE 5

Competent secure connectivity authority

Norway shall designate a competent secure connectivity authority.

The competent secure connectivity authority shall ensure that:

(a) the use of services covered by this Agreement is in compliance with the general security requirements referred to in Article 34(2) of the Space Regulation and in Article 30(3) of the Secure Connectivity Regulation;

(b) the access rights to the services covered by this Agreement are determined and managed;

(c) user equipment necessary for the use of the services covered by this Agreement and associated electronic communication connections and information are used and managed in accordance with the general security requirements referred to in Article 34(2) of the Space Regulation and in Article 30(3) of the Secure Connectivity Regulation;

(d) a central point of contact is established to assist as necessary in the reporting of security risks and threats, in particular the detection of potentially harmful electromagnetic interference affecting the services under the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme.

ARTICLE 6

Governmental services

1. Services covered by this Agreement shall be provided to the participants referred to in Article 4 of this Agreement in accordance with the rules set out in Commission Implementing Decision (EU) 2023/1053[1] and Implementing Decision (EU) 2023/1055.

2. Access to GOVSATCOM services and to the governmental services of the Union Secure Connectivity Programme shall be subject to the fulfilling of the conditions governing their use in accordance with this Article.

3. The following entities may be authorised as users of GOVSATCOM services and of the governmental services of the Union Secure Connectivity Programme:

(a) a Norwegian public authority or a body entrusted with the exercise of public authority in Norway; and

(b) a natural or legal person acting on behalf and under the control of an entity referred to in point (a).

[1] Commission Implementing Decision (EU) 2023/1053 of 30 May 2023 laying down rules for the application of Regulation (EU) 2023/588 of the European Parliament and of the Council as regards operational requirements for governmental services provided under Union Secure Connectivity Programme and its service portfolio (OJ EU L 141, 31.5.2023, p. 44, ELI: http://data.europa.eu/eli/dec_impl/2023/1053/oj).

4. The users of GOVSATCOM services and of the governmental services of the Union Secure Connectivity Programme referred to in paragraph 3 of this Article shall be duly authorised by Norway to use those services and shall comply with the general security requirements referred to in Article 34(2) of the Space Regulation and in Article 30(3) of the Secure Connectivity Regulation.

ARTICLE 7

Providers of satellite communication capacities and services

The Union may acquire satellite communication capacities and services under the GOVSATCOM component of the Union Space Programme provided by the following entities:

(a) Norway, as GOVSATCOM Participant referred to in Article 68 of the Space Regulation; and

(b) Norwegian legal persons duly accredited to provide satellite communication capacities or services in accordance with the security accreditation procedure referred to in Article 37 of the Space Regulation, which shall comply with the general security requirements for the GOVSATCOM component of the Union Space Programme, as referred to in Article 34(2) of the Space Regulation.

The system delivering those capacities and services shall be considered as a system delivering governmental services if it fulfils the requirements set out in Article 2(2a) of Commission Implementing Decision (EU) 2023/1054[1]. For the purpose of applying that Article, "Member State" is to be understood as "Member State or Norway".

ARTICLE 8

Capacities relevant to the services

The European Commission shall define the total number of tokens to be distributed for the upcoming programmatic periods having regard to the available budget and to the conditions of the contracts and agreements concluded with resource providers.

Norway shall receive a percentage, in tokens, of the Member States' total share established in Implementing Decisions (EU) 2023/1053 and (EU) 2023/1055.

[1] 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 (OJ EU L 141, 31.5.2023, p. 49, ELI: http://data.europa.eu/eli/dec_impl/2023/1054/oj).

ARTICLE 9

Enhanced Arctic coverage

The governmental infrastructure of the Union Secure Connectivity Programme may include additional elements to enhance low latency coverage over the Arctic region.

Any additional financial contribution required for the design, development, deployment and exploitation of such elements shall be established by a decision of the joint committee referred to in Article 18 amending this Article in accordance with Article 18(4) and implemented in accordance with Article 12.

ARTICLE 10

Eligibility and participation conditions for Norwegian entities

Article 24 of the Space Regulation and Article 22 of the Secure Connectivity Regulation regarding eligibility and participation conditions under the programmes shall apply to this Agreement.

Where the European Commission decides on a waiver in accordance with Article 24(3) of the Space Regulation without having recourse to the derogation set out in the last subparagraph of that paragraph, an eligible legal entity shall comply with the following participating conditions:

(a) the eligible legal entity is established in Norway and its executive management structures are established in Norway, or in a Union Member State, or in any other EEA EFTA State participating, as relevant, in the GOVSATCOM component of the Union Space Programme or in the Union Secure Connectivity Programme;

(b) the eligible legal entity commits to carrying out all relevant activities in Norway or a Union Member State or any other EEA EFTA State participating, as relevant, in the GOVSATCOM component of the Union Space Programme or in the Union Secure Connectivity Programme; and

(c) the eligible legal entity is not subject to control by a third country or by a third country entity.

ARTICLE 11

Implementing decisions

The relevant Commission implementing decisions applicable to the GOVSATCOM component of the Union Space Programme and to the Union Secure Connectivity Programme shall apply to activities implemented under this Agreement.

ARTICLE 12

Additional contribution

Under this Agreement, Norway may offer an additional financial contribution to cover additional elements on condition that such additional elements do not create any financial or technical burden or any delay in the proper implementation of the component concerned. Such additional financial contribution shall be established by a decision of the joint committee referred to in Article 18 amending this Article in accordance with Article 18(4) and shall be used to finance the associated additional element in accordance with Article 12 of the Space Regulation and Article 15 of the Secure Connectivity Regulation.

ARTICLE 13

Radio spectrum

1. The Parties agree to cooperate within the International Telecommunication Union (ITU) as regards spectrum issues concerning European secure connectivity.

2. In the context of the cooperation referred to in paragraph 1, the Parties shall protect the frequency allocations necessary for the European secure connectivity systems to ensure the availability of the services of those systems for the benefit of users.

3. Moreover, the Parties recognise the importance of protecting radio spectrum used by secure connectivity from disruption and interference. To that end they shall identify sources of interference and seek mutually acceptable solutions to combat such interference.

4. Nothing in this Agreement shall be construed as derogating from the applicable provisions of the ITU, including the ITU Radio Regulations.

ARTICLE 14

Protection of financial interests of the Union

Norway shall grant the necessary rights and access required for the authorising officer responsible, the European Anti-Fraud Office (OLAF) and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council[1].

[1] Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ EU L 248, 18.9.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/883/oj).

ARTICLE 15

Security

1. The Parties shall protect the secure connectivity systems against threats such as misuse, interference, disruption and hostile acts. The Parties shall therefore take all practicable steps to ensure the continuity, safety and security of the GOVSATCOM services and of the services of the Union Secure Connectivity Programme and the related infrastructure and critical assets in their territories.

2. The European Commission intends to develop measures to protect against threat, control and manage sensitive assets, information and technologies of the GOVSATCOM component of the Union Space Programme and of the Union Secure Connectivity Programme.

3. Norway shall adopt and enforce in a timely manner, within its jurisdiction, measures providing a degree of security and safety equivalent to those applicable in the European Union.

ARTICLE 16

Participation in committees

Representatives of Norway shall be invited to participate as observers in the committees and working groups established for the management, development and implementation of the activities under the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme in accordance with the relevant rules and procedures and without the right to vote.

Norway shall participate, without the right to vote, in the Security Accreditation Board of the European Union Agency for the Space Programme established by the Space Regulation, for relevant parts of the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme. Participation shall be restricted in compliance with the need-to-know policy established for the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme and shall comply with the rules of procedure of the Security Accreditation Board.

ARTICLE 17

Safeguard measures

1. Each Party may, after consultation with the joint committee referred to in Article 18, take appropriate safeguard measures, including the suspension of one or more provisions of this Agreement, if it finds that the other Party fails to comply with its obligations under this Agreement. After the adoption of safeguard measures, the Parties shall engage, without delay, in mutual consultations within the joint committee in order to re-establish the application of all provisions of this Agreement as soon as possible.

2. The scope and duration of the measures referred to in paragraph 1 of this Article shall be limited to what is necessary in order to remedy the situation and secure a fair balance of rights and obligations under this Agreement. The Parties shall continue their efforts to resolve the dispute in accordance with Article 19.

ARTICLE 18

Joint committee

1. The Parties hereby establish a joint committee consisting of official representatives of each Party whose need-to-know is established.

2. The joint committee shall oversee the functioning of this Agreement and be the forum in which the Parties shall exchange views and information on any issue raised by either Party with regard to the implementation of this Agreement.

3. The joint committee shall adopt its rules of procedure. The joint committee may decide to establish subcommittees to assist it in carrying out its tasks. The joint committee shall establish the terms of reference of those subcommittees.

4. Articles 9 and 12 may be amended by a decision adopted by the joint committee. Such amendment shall enter into force thirty days from the date of adoption of that decision.

5. The joint committee shall meet at least twice a year and, when necessary, at the request of either Party.

6. The joint committee shall be the forum within which to address requests for technical assistance by Norway.

ARTICLE 19

Dispute settlement

Any dispute settlement between the Parties arising under or related to the terms, interpretation or application of this Agreement shall be resolved solely by consultation between the Parties and not be referred to any national or international tribunal or to any third party for settlement.

ARTICLE 20

Entry into force, amendment and termination

1. This Agreement shall enter into force on the first day of the second month following the date on which the Parties have notified each other of the completion of their respective internal legal procedures necessary for that purpose.

2. This Agreement may be amended by written agreement of the Parties. Any amendment to this Agreement shall enter into force on the first day of the second month following the date on which the Parties have notified each other of the completion of their respective internal legal procedures necessary for that purpose.

3. This Agreement shall be in force until 31 December 2027. It shall be automatically extended for further successive periods of 10 years, unless either Party notifies the other Party in writing of its intention not to extend this Agreement no later than 3 months prior to the end of the initial term or of any subsequent 10-year period.

4. Either Party may notify the other Party in writing of its intention to terminate this Agreement. The termination shall take effect 3 months after the date of receipt of the notification.

5. Following the end of the term of this Agreement pursuant to paragraph 3, or its termination pursuant to paragraph 4, it shall be applied by the Parties to all the projects, actions and activities financed under the GOVSATCOM component of the Union Space Programme and the Union Secure Connectivity Programme or this Agreement, until the end of the contractual arrangements relating to those projects, actions and activities.

6. In the event that the Space Regulation, the Secure Connectivity Regulation, or one or more of the implementing decisions referred to in this Agreement are amended, repealed or otherwise revised, references in this Agreement to the Space Regulation, the Secure Connectivity Regulation or the relevant implementing decisions, as applicable, shall be construed as references to the amended, repealed or otherwise revised act or acts.

ARTICLE 21

Authentic languages

This Agreement shall be drawn up in duplicate, in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Norwegian languages, all texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorised to this effect, have signed this Agreement.

Done at …, this … day of … in the year …

For the European Union

For the Kingdom of Norway