



EUROPEAN
COMMISSION

Brussels, 23.2.2024
COM(2024) 85 final

2024/0046 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Agreement between the European Union, of the one part, and the United States of America, of the other part, setting forth Security Procedures for the Launch of Galileo Satellites from U.S. territory

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Following the unilateral withdrawal of Russian personnel from the Guiana Space Centre and the cancellation of two Soyuz launches in April and September 2022 as well as the announced delay of Ariane-6, the Union had to find alternatives to resume urgently the launches of Galileo satellites in order to ensure the proper operation of the Galileo system which is part of the Union Space Programme established by Regulation (EU) 2021/696 of the European Parliament and of the Council ('Union Space Programme Regulation').

After conducting technical feasibility studies on other available launch vehicles, the Commission concluded that the only launch vehicles compatible with Galileo satellites are provided by manufacturers in the United States.

In January 2023, the Commission, together with security experts designated by several Member States, conducted a visit of launch sites in the United States. The visit ascertained the feasibility of launching from those sites in the United States with appropriate security measures in respect of security sensitive material and documentation of the Galileo satellites, including European Union classified information ('EU classified information').

In view of ensuring the security of information included in Galileo satellites, a legally binding agreement with the United States is necessary to protect the integrity of the Galileo satellites on United States' territory and the confidentiality of EU classified information not releasable to the United States that is contained within the satellites or related to the satellites' launch.

Any exchange or provision of classified information between the EU and the United States for the purposes of the launches of Galileo satellites must comply with the requirements set out in the Agreement between the EU and the government of the United States of America on the security of classified information and its security arrangement.

• Consistency with existing policy provisions in the policy area

The initiative is consistent with Regulation (EU) 2021/696 establishing the Union Space Programme¹ which provides that the Commission has overall responsibility for the implementation of the Union Space Programme, including in the field of security, without prejudice to Member States' prerogatives in the area of national security.

The initiative is consistent with the Agreement on the promotion, provision and use of Galileo and GPS satellite-based navigation systems and related applications between the United States of America, of the one part, and the European Community and its Member States, of the other part², signed at Dromoland Castle, Co. Clare, on 26 June 2004, which entered into force in 2011.

The initiative is also consistent with and complementary to the Agreement between the European Union and the Government of the United States of America on the security of classified information³ done at Washington on 30 April 2007 and in particular Article 19

¹ Official Journal L 170 of 12.5.2021

² Official Journal L 348 of 31.12.2011

³ Official Journal L 115 of 3.5.2007

thereof, and its associated Security Arrangement for the protection of classified information exchanged between the EU and the United States of America, agreed on 18 July 2007.

- **Consistency with other EU policies**

This Security Agreement is necessary to enable launches of satellites that will complete the Galileo satellite navigation constellation, which is indispensable in order to perform the task of providing long-term, state-of-the-art and secure positioning, navigation and timing services as required by Article 4(2) a) of the Union Space Programme Regulation.

Galileo supports key economic sectors, in particular telecommunications, energy and transport and the protection of critical infrastructures thereof.

The satellite navigation services offered by the Galileo component of the Union Space Programme support a number of EU priorities including the Green Deal, a Europe fit for the Digital Age, an Economy that works for People and a Stronger Europe in the World.

The Galileo satellite navigation services also contribute to peace and security and sustainable development in the world.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 218(6) of the Treaty on Functioning of the European Union ('TFEU') provides that the Council, on a proposal from the Commission, shall adopt a decision authorising the conclusion of the Agreement.

Under Article 189(2) TFEU the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures to attain the objectives of a European space policy, such as the Union Space Programme Regulation. Signing of the security agreement with the U.S. is a prerequisite for a launch of Galileo satellites from the U.S. territory, and therefore necessary for the implementation of the Union Space Programme Regulation.

- **Proportionality**

An international agreement, in accordance with Article 218 TFEU is required in order to create rights and obligations between the Parties: the EU and the U.S. as a third country. Creation of binding rights and obligations of the Parties is necessary to assure adequate security of Galileo assets imported to the U.S. territory for the purposes of launch. The form of an international agreement was chosen in order to create rights and obligations, which are binding under international law

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

- **Stakeholder consultations**

The Security configuration of the Union Space Programme Committee, the Security Accreditation Board and the Council Security Committee were informed of the finalisation of the negotiations and the planned Commission recommendation for the Council decision authorising the signing of the agreement.

- **Collection and use of expertise**

The Commission collected the necessary information and expertise in its discussions with Security configuration of the Union Space Programme Committee, with the Security Accreditation Board and with the Council Security Committee.

- **Fundamental rights**

The Agreement between the Union and the U.S. takes full account of the essential interests of the Union or of one or more of the Member States, the importance of ensuring respect for democracy, the rule of law and respect for the principles of the United Nations Charter and international law.

4. BUDGETARY IMPLICATIONS

From a budgetary point of view, the conclusion of an agreement with the U.S. setting forth security procedures for the launch of Galileo satellites from U.S. territory does not require resources or provide external assigned revenues. There are therefore no budget implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Agreement will be implemented and monitored by the European Commission and a number of European and U.S. organisations as stipulated in the Agreement, such as European Space Agency, European Union Space Programme Agency, U.S. Customs and Border Patrol, U.S. Federal Aviation Administration . In view of the implementation and monitoring of the Agreement the names of the points of contact of these organisations will be exchanged.

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Agreement between the European Union, of the one part, and the United States of America, of the other part, setting forth Security Procedures for the Launch of Galileo Satellites from U.S. territory

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 189(2), in conjunction with Article 218(6), point (a), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament⁴,

Whereas:

- (1) The cancellation of two Soyuz launches from the Guiana Space Centre in April and September 2022 as well as the announced delay of Ariane-6 force the Union to find alternatives to resume urgently the launches of Galileo satellites. This is critical to ensure the proper operation of the Galileo system, which is part of the Union Space Programme established by Regulation (EU) 2021/696 of the European Parliament and of the Council.
- (2) On 28 June 2023, the Commission submitted to the Council a recommendation for a Council decision authorising the Commission to open negotiations with the United States of America (the “U.S.”) to lay down security procedures for the launch of Galileo satellites from the U.S.’ territory (doc. 11233/23). As part of the recommendation, the Commission also submitted to the Council draft negotiating directives (doc. 11233/23 ADD 1).
- (3) On 5 July 2023, the Commission presented the recommendation for a Council Decision, including negotiating directives to the Council Security Committee (CSC).
- (4) On 23 November 2023, the Council authorised the opening of negotiations on behalf of the Union with a view to concluding a security agreement between the Union and the U.S. setting forth the security procedures for the launch of Galileo satellites from the U.S. territory.
- (5) The U.S. has a longstanding cooperation with the European Union on satellite navigation. An EU-U.S. Agreement on the promotion, provision and use of Galileo and GPS satellite-based navigation systems and related applications is in force since 2011.
- (6) The EU and the U.S. have a Security of Information Agreement in place that will be applicable to EU confidential information shared with the U.S.
- (7) The objective of the Agreement is to set forth security procedures for the launch of Galileo satellites from U.S. territory.

⁴ Consent of ... (not yet published in the Official Journal).

- (8) In accordance with Council Decision (EU) .../...⁵, the Security Agreement between the European Union, of the one part, and the United States of the other part, setting forth security procedures for the launch of Galileo satellites from U.S. territory was signed on behalf of the Union on ...⁶, subject to its conclusion at a later date.
- (9) The agreement should be approved on behalf of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Security Agreement between the European Union, of the one part, and the United States of the other part, setting forth security procedures for the launch of Galileo satellites from U.S. territory (the 'Agreement') is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

The Commission shall proceed, on behalf of the European Union, to the notification provided for in Article 12(1) of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

⁵ OJ: Please insert in the text the number of the Decision contained in document ST 7773/23 and insert the number, date and OJ reference of that Decision in the footnote:
Council Decision (EU) .../... of ... on the signing, on behalf of the Union, of the Agreement between the European Union, of the one part, and the Kingdom of Norway, of the other part, laying down the terms and conditions of the detailed rules for access by the Kingdom of Norway to the Public Regulated Service provided by the Global Navigation Satellite System established by the Galileo Programme (OJ L ..., ..., p. ...).

⁶ OJ: Please insert in the text the date of signature of the Agreement.