Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council

REGULATION (EU) No 1285/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 December 2013

on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The aim of the European satellite navigation policy is to provide the Union with two satellite navigation systems, the system established under the Galileo programme and the EGNOS system ('the systems'). These systems arise respectively from the Galileo and EGNOS programmes. Each infrastructure consists of satellites and a network of ground stations.

(2) The aim of the Galileo programme is to establish and operate the first global satellite navigation and positioning infrastructure specifically designed for civilian purposes, which can be used by a variety of public and private actors in Europe and worldwide. The system established under the Galileo programme functions independently of other existing or potential systems, thus contributing amongst other things to the strategic autonomy of the Union, as emphasised by the European Parliament and the Council.

(3) The aim of the EGNOS programme is to improve the quality of open signals from existing global navigation satellite systems ('GNSS') as well as those from the open service offered by the system established under the Galileo programme, when they become available. The services provided by the EGNOS programme should cover, as a priority, the Member States' territories geographically located in Europe, including for this purpose the Azores, the Canary Islands and Madeira.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 1285/2013 of the European Parliament and of the Council. (See end of Document for details)*

(4) The European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions have consistently given their full support to the Galileo and EGNOS programmes.

(5) Since the Galileo and EGNOS programmes are at an advanced development stage leading to systems in an exploitation phase, a specific legal instrument is required to meet their needs, particularly in terms of governance and security, to satisfy the requirement for sound financial management and to promote the use of the systems.

(6) The systems are infrastructures set up as trans-European networks of which the use extends well beyond the national boundaries of the Member States. Furthermore, the services offered through these systems contribute to a wide range of economic and social activities, including the development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

(7) The Galileo and EGNOS programmes are an industrial policy tool and are part of the Europe 2020 strategy, as illustrated by the Commission Communication of 17 November 2010 entitled 'An integrated industrial policy for the globalisation era: putting competitiveness and sustainability at centre stage'. They are also referred to in the Commission Communication of 4 April 2011 entitled 'Towards a space strategy for the European Union that benefits its citizens'. Those programmes provide many advantages for the economy and citizens of the Union, whose cumulative value has been estimated at approximately EUR 130 billion in the period 2014-2034.

(8) A growing number of economic sectors, in particular transport, telecommunications, agriculture and energy, increasingly use satellite navigation systems. Public authorities can also benefit from these systems in various areas such as emergency services, police, crisis management or border management. Developing the use of satellite navigation brings enormous benefits to the economy, society and the environment. Such socio-economic benefits are broken down into three main categories: direct benefits resulting from the growth of the space market, direct benefits resulting from the growth of the downstream market for GNSS-based applications and services, and indirect benefits resulting from the emergence of new applications in, or technology transfer to, other sectors, leading to new market opportunities in other sectors, productivity gains across industry and public benefits generated by a reduction in pollution or by improved levels of safety and security.

(9) It is therefore important that the Union support the development of applications and services based on the systems. This will allow the citizens of the Union to reap the benefits derived from the systems, and ensure that public confidence in the Galileo and EGNOS programmes is maintained. The appropriate instrument to finance research and innovation activities relating to the development of GNSS-based applications is Horizon 2020 – the Framework Programme for Research and Innovation ("Horizon 2020") established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council[(2)]. However, a very specific upstream part of research and development activities should be financed from the budget allocated to the Galileo and EGNOS programmes under this Regulation, where such activities concern fundamental elements such as Galileo-enabled chipsets and receivers, which will facilitate the development of

applications across different sectors of the economy. Such financing should nevertheless not jeopardise the deployment or exploitation of the infrastructures established under the programmes.

(10) Given the increasing use of satellite navigation across a great number of fields of activity, an interruption in the supply of services could lead to significant harm to modern society and result in losses for many economic operators. In addition, due to their strategic aspect, satellite navigation systems are sensitive infrastructures, that could be susceptible to malicious use. These factors could affect the security of the Union, its Member States and its citizens. Security requirements should therefore be taken into account in the design, development, deployment and exploitation of the infrastructures established under the Galileo and EGNOS programmes in accordance with standard practices.

(11) The Galileo programme includes a definition phase which has been completed, a development and validation phase until 2013, a deployment phase which was launched in 2008 and is due for completion in 2020, and an exploitation phase which should be launched progressively from 2014-15 in order to have a fully operational system in 2020. The first four operational satellites have been constructed and launched during the development and validation phase, while the full constellation of satellites should be completed during the deployment phase and replenishment should occur during the exploitation phase. The associated ground-based infrastructure should be developed and operated accordingly.

(12) The EGNOS programme has been in the exploitation phase since its open service and 'safety of life' service were declared operational in October 2009 and March 2011 respectively. Subject to technical and financial constraints and on the basis of international agreements, the geographical coverage of the services provided by the EGNOS system could be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of countries in the European Neighbourhood Policy. However, such extension to other regions of the world should not be financed by the budgetary appropriations assigned to the Galileo and EGNOS programmes under Council Regulation (EU, Euratom) No 1311/2013[(3)] and should not delay the extension of the coverage throughout the Member States' territories geographically located in Europe.

(13) The original design of the Galileo safety-of-life service as provided for in Regulation (EC) No 683/2008 of the European Parliament and of the Council[(4)] has been re-profiled to ensure its interoperability with other GNSS, to respond effectively to safety-of-life user needs and to reduce the complexity, risks and costs of the required infrastructure.

(14) To maximise the take-up of the EGNOS safety-of-life service, it should be provided without direct user charge. The Galileo public regulated service (PRS) should also be offered free of charge to the following PRS participants, within the meaning of Decision No 1104/2011/EU of the European Parliament and the Council[(5)]: Member States, the Council, the Commission, the European External Action Service ("EEAS") and duly authorised Union agencies. The absence of charges should not be understood to affect

the provisions regarding the costs of the functioning of a competent PRS authority as laid down in Decision No 1104/2011/EU.

(15) In order to optimise the use of the services provided, the systems, networks and services emerging from the Galileo and EGNOS programmes should be compatible and interoperable with one another and, insofar as possible, with other satellite navigation systems and with conventional means of radio navigation where such compatibility and interoperability is laid down in an international agreement, without prejudice to the objective of strategic autonomy.

(16) Since the Union is responsible, in principle, for financing the Galileo and EGNOS programmes in full, provision should be made for the Union to own all tangible and intangible assets created or developed under those programmes. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements should be made with existing owners, particularly with respect to essential elements of the infrastructures and their security. It should be understood that the provisions on ownership of intangible assets laid down in this Regulation do not cover intangible rights that are not transferable under relevant national laws. Such ownership by the Union should be without prejudice to the possibility for the Union, in accordance with this Regulation and where it is deemed appropriate on the basis of a case-by-case assessment, to make those assets available to third parties or to dispose of them. In particular, the Union should be able to transfer the ownership of or license the intellectual property rights arising from work under the Galileo and EGNOS programmes to third parties. In order to facilitate the market uptake of satellite navigation, there is a need to ensure that third parties can make optimum use in particular of the intellectual property rights arising from the Galileo and EGNOS programmes which belong to the Union, including at social and economic level.

(17) Assets created or developed outside the Galileo and EGNOS programmes are not affected by the provisions on ownership laid down in this Regulation. However, such assets might, on occasion, be relevant to the performance of the programmes. In order to encourage the development of new technology outside the Galileo and EGNOS programmes, the Commission should encourage third parties to draw its attention to relevant intangible assets and should, where it would be beneficial to the programmes, negotiate terms as to the appropriate use thereof.

(18) The deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme should be entirely financed by the Union. However in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(6)], the Member States should be able to provide additional funding to the Galileo and EGNOS programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements relating to the potential particular objectives of the Member States concerned. Third countries and international organisations should also be able to contribute to the programmes.

(19) In order to ensure the continuity and stability of the Galileo and EGNOS programmes and considering their European dimension and their intrinsic European added value, sufficient and consistent funding is required over financial planning periods. It is also

necessary to indicate the amount required between 1 January 2014 to 31 December 2020 to finance completion of the deployment phase of the Galileo programme and the exploitation phases of the Galileo and EGNOS programmes.

(20) Regulation (EU, Euratom) No 1311/2013 allocates a maximum of EUR 7 071,73 million in current prices for the financing of activities relating to the Galileo and EGNOS programmes for the period from 1 January 2014 to 31 December 2020. For the sake of clarity and in order to facilitate cost control, that overall amount should be broken down into various categories. Nonetheless, in the interest of flexibility and to ensure the smooth running of the programmes, the Commission should be able to re-allocate funds from one category to another. The programme activities should also include the protection of the systems and their operation, including during the launch of satellites. In this respect, a contribution to the costs of services capable of providing such protection could be financed by the budget allocated to the Galileo and EGNOS programmes insofar as possible following rigorous cost management and full compliance with the maximum amount established in Regulation (EU, Euratom) No 1311/2013. Such contribution should be used only for the provision of data and services and not for the purchase of infrastructure. This Regulation lays down a financial envelope for the continuation of the Galileo and EGNOS programmes which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management[7] for the European Parliament and the Council during the annual budgetary procedure.

(21) The activities for which the Union budget appropriations assigned to the Galileo and EGNOS programmes for the period 2014-2020 are to be granted should be specified in this Regulation. Such appropriations should be granted mainly for activities relating to the deployment phase of the Galileo programme, including management and monitoring activities for that phase, and activities relating to the exploitation of the system established under the Galileo programme, including actions preceding or in preparation for the exploitation phase of that programme, as well as for activities relating to the exploitation of the EGNOS system. They should also be granted for funding certain other activities required to manage and achieve the objectives of the Galileo and EGNOS programmes, in particular support for research and development of fundamental elements, such as Galileo enabled chipsets and receivers, including as appropriate positioning and integrity-monitoring software modules. Those elements constitute the interface between the services offered by the infrastructures and downstream applications, and facilitate the development of applications throughout various sectors of the economy. Their development acts as a catalyst for the maximisation of socio-economic benefits as it facilitates the market uptake of the services offered. The Commission should report annually to the European Parliament and the Council on the cost-management strategy pursued.

(22) It is important to note that the investment and operating costs of the systems as estimated for the period 2014-2020 do not take account of unforeseen financial obligations which the Union may be obliged to assume, in particular those relating to liability arising