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**WHY WAS IT NECESSARY TO APPOINT
A DECENTRALIZED AGENCY FOR COHERENT
AND SAFE MANAGEMENT OF THE EU SPACE
PROGRAMME? COMMENTS ON THE EUSPA'S
MANDATE AGAINST OTHER EU AGENCIES¹**

Abstract

The aim of this article is to answer the question of why it was necessary to appoint a specialised decentralised agency for coherent and safe management of the EU Space Programme. This article also analyses the Union's competences in the area of space policies and investigates the EUSPA's place in the EU administration system. Finally, the article investigates and presents selected competences of the European Union Agency for the Space Programme (EUSPA) for strengthening EU's security. This study employs the method of interpretation of the law in force, while EU regulations are subject to a teleological interpretation. The conducted analysis shows that the correctness of the choice of a decentralized agency as an entity responsible for implementing the EU space programme was determined by agencies' shared features – the fact that they are permanent organs, with legal personality and thus independent as they function outside the Commission's Directorates. Moreover, agencies affiliate apolitical experts and

¹ This article is an effect of the implementation of a research project "Ombudsman as a guarantor of protection of fundamental rights of migrants" no. 2020/39/B/HS5/01424 financed from the funds of the National Science Centre.

implement the priority of new public management based on the commercial companies managing model. Thus, the way they operate is more effective and predictable.

KEY WORDS

decentralised agencies, EU Space Programme, EUSPA, space law

SŁOWA KLUCZOWE

agencje zdecentralizowane, program kosmiczny UE, Agencja Unii Europejskiej ds. Programu Kosmicznego, prawo kosmiczne

1. INTRODUCTION

The European Union, previously the European Community (European Economic Community, EEC), was established to tighten economic cooperation between European countries. Initially, EEC activity focused on creating an internal market with the freedom of movement for workers, capital, goods and services. With time, when member states strengthened cooperation, we could observe a certain “sweeping in” of competences by the Community and the Union. The proof for it was the introduction of EU citizenship and the freedom of movement for the citizens of the Union thanks to the Maastricht Treaty or inclusion of the *acquis Schengen* to the legal system of the Union and creation of a common migration and asylum policy under the Treaty of Amsterdam. Inclusion of the right to exercise policies for space exploration in the EU competences was also a sign of the times.²

The aim of this article is to answer the question of why it was necessary to appoint a specialised decentralised agency for coherent and safe management of the EU Space Programme. This article also analyses the Union’s competences in the area of space policies and investigates the EUSPA’s place in the EU administration system. Finally, the article inspects and presents selected competences of the European Union Agency for the Space Programme (EUSPA) for strengthening EU’s security.

² B. Smolik, P. Turczyński, *Geneza eksploracji kosmosu – rozważania wstępne*, (in:) B. Smolik, P. Turczyński (eds), *Polityka kosmiczna Unii Europejskiej. Zagadnienia prawne, polityczne i ekonomiczne*, Kraków 2022, pp. 11-12; P. Świerczyński, *Obszar “Przestrzeń kosmiczna” w programach ramowych Unii Europejskiej od 7PR do programu Horyzont Europa (2007-2021)*, (in:) B. Smolik, P. Turczyński (eds), *Polityka kosmiczna Unii Europejskiej. Zagadnienia prawne, polityczne i ekonomiczne*, Kraków 2022, p. 125 ff.

This study employs the method of interpretation of the law in force, while EU regulations are subject to a teleological interpretation.

2. THE EU SPACE PROGRAMME AND THE COMPETENCES AND GOALS OF THE EUROPEAN UNION

The European Union has competences under treaties to execute a policy for space exploration. Pursuant to Article 4 TFEU these are shared competences: “In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs”.³ Moreover, the Treaty regulates questions associated with the implementation of the Union’s policy on cosmic space in Title XIX of the TFEU: “Research and technological development and space”. Pursuant to Article 189 of the Treaty, the Union draws up its space policy and to this end it pursues its own initiatives and supports research and technological development. Under this article, the European Parliament and the Council are given competences to lay down secondary law.⁴

The basic act of secondary law for the implementation of the space policy is Regulation (EU) 2021/696 establishing the Union Space Programme and the European Union Agency for the Space Programme.⁵

It needs to be remembered that the European Union exercises its space policy competences according to the subsidiarity principle under Article 5 of the Treaty on European Union.⁶ There is no doubt that activities in the area of space

³ Treaty on the Functioning of the European Union, consolidated version, OJ C 202, 7.06.2016, p. 47. See also R. Schutze, *An Introduction to European Union Law*, Cambridge 2013, p. 59; N. Foster, *EU Law Directions*, Oxford 2012, p. 74; D. Chalmerd, G. Davies, G. Monti, *European Union Law*, Second Edition, Cambridge 2011, pp. 208-210.

⁴ For the European Space Policy see B. Smolik, *Szansa i zagrożenia polityki kosmicznej Unii Europejskiej*, (in:) B. Smolik, P. Turczyński (eds), *Polityka kosmiczna Unii Europejskiej. Zagadnienia prawne, polityczne i ekonomiczne*, Kraków 2022, p. 16 ff.

⁵ 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 L 170, 12.5.2021, pp. 69–148.

⁶ Pursuant to Article 5(3) TEU: “Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.” Treaty on European Union, consolidated version, OJ C 202, 7.06.2016, pp. 13-46.

policy cannot be exercised by individual Member States. The confirmation of the application of the subsidiarity principle was placed in the Preamble of Regulation 2021/696, in its recital 127.⁷

The Space Programme carried out by the European Union fits the goals generally pursued by the EU, such as development of the internal market (thanks to the possibilities of application of new technologies) and also strengthening competitiveness of the Union's economy on the global market and a better protection of consumers. On the other hand, the Space Programme allows the strengthening of EU activities for the benefit of the Union's external security, including protection against terrorism or ensuring security of the EU borders. Recital 62 of the Regulation emphasizes the use of satellite navigation systems and Earth observation systems by transport, telecommunications, agriculture and energy sectors.

The space policy accommodates most of all the following components: Galileo (a sat nav system),⁸ Copernicus (Earth observation system),⁹ GOVSATCOM (that ensures government satellite communications),¹⁰ SSA (Space Situational Awareness; SST – Space Surveillance and Tracking – a system for tracking space debris, is one of its component)¹¹ and EGNOS (The European Geostationary Navigation Overlay Service, a system responsible for PGS security).¹²

⁷ Pursuant to Recital 127 of Regulation 2021/696: "Since the objective of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the action that go beyond the financial and technical capacities of any single Member State, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective".

⁸ Global Navigation Satellite System (GNSS). The Galileo System is EU's satellite navigation system for civilian purposes and thus ensures the Union's strategic autonomy. EUSPA, *Galileo is the European global satellite-based navigation system*, <https://www.euspa.europa.eu/european-space/galileo/What-Galileo> (accessed 18.08.2022). See also B. Smolik, *Unia Europejska w obliczu głównych wyzwań polityki kosmicznej*, 'Wrocławskie Studia Politologiczne' 2008, No. 9, p. 148; P. Świerczyński, 2022, *op. cit.*, p. 127 ff.

⁹ Earth observation under Copernicus is carried out in six thematic areas: atmosphere, environment, sea, land, climate change, security and crisis situations – see R. Bielawski, *Budowanie zdolności kosmicznych w zakresie obserwacji Ziemi – stan obecny oraz perspektywy rozwoju*, 'Ad Astra' 2022, No. 5, p. 23. See also A. Szwed, *Program obserwacji Ziemi Copernicus narzędziem rozwiązania kryzysu migracyjnego*, (in:) A. Gołębiowska, K. Myszona – Kostrzewa (eds), *Aktualne wyzwania prawa kosmicznego a bezpieczeństwo międzynarodowe*, Warsaw 2020, pp. 199 – 214.

¹⁰ EUSPA, *Govstatcom*, <https://www.euspa.europa.eu/european-space/govsatcom> (accessed 10.01.2023).

¹¹ EUSPA, *Space Situational Awareness*, <https://www.euspa.europa.eu/european-space/space-situational-awareness> (accessed 10.01.2023).

¹² ¹² See: B. Smolik, 2022, *op. cit.*, p. 29; M. Polkowska, *Współczesne trendy w polityce kosmicznej – rola Europy*, (in:) B. Smolik, P. Turczyński (eds), *Polityka kosmiczna Unii Europejskiej. Zagadnienia prawne, polityczne i ekonomiczne*, Kraków 2022, p. 114.

The functioning of the Space Programme is necessary for the development of the Union's economy, the single digital market, for ensuring its competitiveness and for safeguarding EU security and activities for the climate. The Space Programme is a response to the changing conditions of the development of the economy in the modern world and fits in the general goals of the Union as an international organization.

3. THE CHALLENGE FOR EFFECTIVE MANAGEMENT OF THE IMPLEMENTATION OF THE UNION'S SPECIALIZED POLICIES – CREATION OF DECENTRALIZED AGENCIES

The choice of the form of a decentralized agency for the body that manages the European space programme was not accidental.¹³ Under administrative law of the European Union an agency may take the form of an executive agency (appointed by the European Commission for a fixed term to manage EU programmes) or a decentralized agency.¹⁴

The Union's law does not define the concept of agency,¹⁵ but such definitions were developed by legal scholars.¹⁶ Zieliński defines decentralised agencies as “permanent bodies acting on the basis of the EU law, created on the basis of secondary legislation of this organization and equipped with a separate legal personality”.¹⁷

¹³ Decentralized agencies are part of the EU administration, so called direct administration. For the character of EU's administration see J. Superat, *Administracja w Unii Europejskiej – podziały i postacie*, 'Acta Universitatis Vratislaviensis. Przegląd Prawa i Administracji' 2015, p. 105 ff.

¹⁴ M. Poboży, *Agencje zdecentralizowane i komitety komitologiczne w systemie instytucjonalnym Unii Europejskiej – problem legitymizacji władzy*, (in:) M. Witkowska, K.A. Wojtaszczyk (eds), *Agencje, komitety i inne jednostki organizacyjne w Unii Europejskiej*, Warsaw 2015, p. 156.

¹⁵ M. Wieloński, *Prawny wymiar funkcjonowania agencji, komitetów i innych jednostek organizacyjnych Unii Europejskiej. Wnioski na przyszłość*, (in:) M. Witkowska, K.A. Wojtaszczyk (eds), *Agencje, komitety i inne jednostki organizacyjne w Unii Europejskiej*, Warsaw 2015, p. 33.

¹⁶ See H. Lelieveldt, S. Princen, *The Politics of the European Union*, Cambridge 2019, p. 269.

¹⁷ M. Zieliński, *Klasyfikacje agencji zdecentralizowanych Unii Europejskiej*, 'Studia Prawnicze KUL' 2017, No. 1(69), p. 182. Wojtaszczyk, on the other hand, defines agencies as special decentralized structures, usually created on the basis of secondary legislation, with a legal personality, that administer a diverse competence mandate for supporting the Union's bodies, member states and their citizens in the areas of selected fields of the Union policies – K. A. Wojtaszczyk, *Agencje w systemie Unii Europejskiej. Typologia oraz podstawy teoretyczno-metodologiczne prowadzenia badań*, (in:) M. Witkowska, K.A. Wojtaszczyk (eds), *Agencje, komitety i inne jednostki organizacyjne w Unii Europejskiej*, Warsaw 2015, p. 11. Witkowska, in turn, claims that “(...) the term agency should be understood as decentralized units that deal with a specific field of the EU policy identified in the instrument that sets it up (usually regulation).

From the historical point of view, commentators identify four generations of agencies – the first was created in the 1970s.¹⁸ The 1990s was a special time in establishing these bodies – it is then that certain decentralized agencies were formed, such as the European Environment Agency and the so-called agencies of EU's former III pillar – e.g. Europol and Cepol. The aim of creating agencies was to take the burden off the European Commission and to set up the EU's expert administrative support.¹⁹ The third generation of agencies was created at the beginning of the 21st century, while the fourth one after the 2009 financial crisis.²⁰ The emergence of EU agencies was associated with the phenomenon of progressive integration and inclusion in the EU's competences of spheres sensitive from the point of view of state policies.²¹

Agencies, as bodies of EU administration, are subject to the EU law, operate as a rule on the basis of the EU budget, while in certain cases they may issue administrative decisions.²² The nature of their activity is permanent and they have seats in Member States. Agencies have management boards and executive directors in their structure and also auxiliary bodies (e.g. scientific committee),²³ while the Court of Auditors exercises external supervision over them.²⁴ EU law scholars and commentators call these agencies “independent” in a sense that they do not function under any Directorate of the European Commission, but have a legal personality.²⁵ Thanks to the introduction of such decentralization that grants legal personality and financial independence to agencies, it was possible for the Union to introduce activities in many specific fields,²⁶ such as aviation (European Union Aviation Safety Agency) or pharmaceuticals (European Medicine Agency). At the

They are autonomous towards EU institutions and have a legal personality” – see M. Witkowska, *Wymiar funkcjonalny działania agencji, komitetów i innych jednostek organizacyjnych w systemie Unii Europejskiej*, (in:) M. Witkowska, K.A. Wojtaszczyk (eds), *Agencje, komitety i inne jednostki organizacyjne w Unii Europejskiej*, Warsaw 2015, p. 82.

¹⁸ Eurofund (European Foundation for the Improvement of Living and Working Conditions) is an example of such an agency – see M. Zieliński, 2017, *op. cit.*, p. 182.

¹⁹ K. A. Wojtaszczyk, 2015, *op. cit.*, p. 12.

²⁰ For more see M. Zieliński, 2017, *op. cit.*, p. 187 – 188. Wieloński speaks critically of the diversity of structure, financing and lack of shared legal norms of EU agencies. He notes that “Agencies were set up one after another and there was no general vision of their role and place in the Union in the process. Modelling the legal system in this way results in multiple adverse phenomena” – M. Wieloński, 2015, *op. cit.*, pp. 48 – 49.

²¹ M. Poboży, 2015, *op. cit.*, p. 135.

²² M. Wieloński, 2015, *op. cit.*, p. 41.

²³ P. Wawrzyk, *Wymiar organizacyjny agencji Unii Europejskiej. Struktury organizacyjne; procesy decyzyjne; finansowanie. Wnioski na przyszłość*, (in:) M. Witkowska, K.A. Wojtaszczyk (eds), *Agencje, komitety i inne jednostki organizacyjne w Unii Europejskiej*, Warsaw 2015, p. 66.

²⁴ K.A. Wojtaszczyk, 2015, *op. cit.*, p. 15.

²⁵ M. Shapiro, *Independent Agencies*, (in:) P. Craig, G. de Burca (eds), *The Evolution of EU Law*, Oxford 2011, p. 111.

²⁶ K. Kowalczyk-Bañczyk, *Instytucje Unii Europejskiej*, (in:) S. Biernat (ed.), *Podstawy i źródła prawa Unii Europejskiej*, Warsaw 2020, p. 460.

moment there are close to 40 decentralized agencies in the system of the EU's administrative law, affiliated in the EU Agencies Network.²⁷

The legal basis for the creation of agencies lies in provisions of primary legislation and in EU principles of democracy and institutional balance.²⁸ Agencies are mostly set up pursuant under Article 352 TFEU. According to it: "If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures."²⁹

Legal commentary emphasizes the special role of decentralized agencies in promoting new public management³⁰ and in promoting good governance standards.³¹ It is an element of the so-called multi-level governance.³² Agencies' features that determine these positive aspects include decentralization, independence and affiliation of apolitical experts. Representatives of legal scholarship believe that the model of managing an agency is similar to managing a commercial company and encourages transparency of public policy.³³ Agencies plan their actions in the context of results that are to be obtained by preparing long-term strategies and action plans.³⁴

²⁷ See also: *2021-2027 Multiannual Strategy for the EU Agencies Network*, Brussels 2020; the document and list of agencies available at: EU Agencies Network, <https://euagencies.eu/> (accessed 11.01.2023).

²⁸ M. Wieloński, 2015, *op. cit.*, p. 16.

²⁹ Article 352(1) sentence 1 TFEU. Moreover, the basis for creating decentralised agencies was Article 114 TFEU concerning harmonization of legislations – see M. Zieliński, 2017, *op. cit.*, p. 194.

³⁰ As noted by M. Witkowska: "This pursuit assumes a move away from a bureaucratic style of decision-making (that is the administration process) towards the so-called managerial model (management process), oriented on the achievement of specific goals and implementation of specific tasks, the verification of which should take place on the basis of measurable standards or indicators. In this sense, the entities examined are appointed for specific purposes to increase the level of competence and efficiency of EU actions – M. Witkowska, 2015, *op. cit.*, p. 85.

³¹ A. Nowicka, *Metoda zarządzania przez rezultaty w agencjach Unii Europejskiej jako sposób efektywnego zarządzania publicznego*, (in:) M. Sadowski, P. Szymaniec (eds), *Acta Erasmiana IV. Prace z teorii i historii prawa oraz administracji publicznej*, Wrocław 2012, p. 124.

³² M. Niedźwiedz, *Karta Praw Podstawowych a koncepcja "nowego rządu" w Unii Europejskiej*, (in:) A. Wróbel (ed.), *Karta Praw Podstawowych w europejskim i krajowym porządku prawnym*, Warsaw 2009, p. 66.

³³ A. Nowicka, 2012, *op. cit.*, p. 124; as quoted in T.G. Grosse, *Nowe metody zarządzania publicznego w Unii Europejskiej*, (in:) J. Czuputowicz (ed.), *Administracja publiczna. Wyzwania w dobie integracji europejskiej*, Warsaw 2008, p. 82.

³⁴ *Ibid.*, p. 130.

4. SPECIAL FEATURES OF THE EUSPA MANDATE

The features of a decentralized agency as a public administration body analysed above demonstrate that it was a form ideally suited to entrusting the management of the space programme to a specialized agency. This task required, on the one hand, a guarantee of a high expert level and on the other, dynamic management.

The European Union Agency for the Space Programme was set up under Regulation 2021/696. The European GNSS Supervisory Authority was originally the administrative body responsible for managing the Galileo programme.³⁵ It was then transformed into GSA – European GNSS Agency.³⁶ GSA was an agency responsible for operational activity.³⁷ Legal scholars classify GSA and a third-generation agency.³⁸

EUSPA is a decentralized operational agency – it has a legal personality, it is a permanent body (with a seat in Prague, the Czech Republic), which carries out public tasks and was created on the basis of secondary legislation. Therefore, it meets the requirements to be qualified as an EU decentralized agency. EUSPA may also be classified indirectly as an internal market agency through the impact of its activities on the development of the digital market.

The Agency's mandate was established by Article 29 of Regulation 2021/696.³⁹ Even though the Space Programme covers the years 2021-2027, pursuant to recital 129 of the Regulation's preamble, the Agency also carries out its own tasks, is not subject to the time limitation of the programme and is a permanent body. The Agency's own tasks are listed in Article 29(1) of the Regulation – they include most of all: ensuring accreditation of security of all components of the space

³⁵ Established pursuant to Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes, OJ L 246, 20.7.2004, pp. 1–9. Changes in the mandate were introduced pursuant to Council Regulation (EC) No 1942/2006 of 12 December 2006 amending Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio-navigation programmes, OJ L 367, 22.12.2006, pp. 18–20.

³⁶ Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council, OJ L 276, 20.10.2010, pp. 11–21.

³⁷ M. Wieloński, 2015, *op. cit.*, p. 43.

³⁸ M. Zieliński, 2017, *op. cit.*, p. 186.

³⁹ Pursuant to Recital 45 of Regulation 2021/696, the Agency's aim is to carry out the space Programme. Moreover: "In relation to security in particular, and given its experience in this area, the Agency should be responsible for the security accreditation tasks for all the Union actions in the space sector".

Programme (including also carrying out of a risk analysis),⁴⁰ development of the market and promotion of services offered by Galileo, EGNOS and Copernicus, and also ensuring professional knowledge in terms of European Commission's space research. The Commission also vested special tasks in the Agency, such as for example managing the operation of the Galileo and Egnos programmes.⁴¹

The bodies of the Agency are the Administrative Board and the Executive Director – typical organs for an internal structure of EU decentralized agencies. At the level of the Agency's functioning, its impartiality and neutrality is indeed guaranteed by the composition of the Administrative Board⁴², which in turn appoints the Executive Director.

A specific organ called the Security Accreditation Board also operates in the EUSPA's structures. The Board's tasks are listed in Article 38(2) and thus its main competence is to define and approve a security accreditation strategy for components of the EU's Space Programme. Moreover, the Security Accreditation Board acts as an advisory body for the Commission, analyses and confirms risk assessment and controls the implementation of security measures towards the space programme components.

Pursuant to Article 39 of the Regulation, the Security Accreditation Board is composed of a representative of each Member State, a representative of the Commission and a representative of the Union's High Representative for foreign affairs and security policy. Decisions of the Board are, pursuant to Article 41 of the Regulation, directed to the European Commission. Article 42 of the Regulation also ensures information exchange between the Board and Member States regarding security accreditation.

The Agency, owing to its competences to manage components of the Space Programme, is also responsible for implementing specific tasks. It is worth mentioning here, for example, the linking of EUSPA activities for EU security with the subject matter of effective protection of the Union's borders and management of migration movements. For example, the EUROSUR (European Border Surveillance System) set up in 2013 relies on data from the Copernicus system.⁴³

⁴⁰ Article 34(3) of Regulation 2021/696.

⁴¹ Full list of tasks vested in the Agency by the Commission is included in Article 34(2) of Regulation 2021/696.

⁴² According to Article 73(1) of Regulation 2021/696: "The Administrative Board shall be composed of one representative from each Member State, and three representatives of the Commission, all with voting rights. The Administrative Board shall also include one member designated by the European Parliament, with no voting rights".

⁴³ See Report from the Commission to the European Parliament and the Council on the evaluation of the European Border Surveillance System (EUROSUR). A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018, Brussels, 12.9.2018 COM(2018) 632 final. The report concludes that: "the EUROSUR Fusion Services are the result of the daily cooperation of the Agency with the European Maritime Safety Agency (EMSA), the European Fisheries Control Agency 5 (EFCA) and the EU Satellite Centre and they have been

According to Article 51(1)(c) Regulation 2021/696: “Eligible actions under the Copernicus Services shall include: (...) “security service to support surveillance within the Union and at its external borders (...)”.

The EUSPA is currently implementing a project *Integrated holographic management map for safety and crisis events (Overwatch)*, which, using data from the Copernicus system, allows creation of a natural disaster management system,⁴⁴ which in consequence will strengthen climate protection actions and facilitate rescue operations in the case of forced climate migrations. Rescue operations for victims of natural disasters, and also *man – made disasters* are supported by the EUSPA’s project *MOBNET (MOBile NETwork for people’s location in natural and man-made disasters)*.⁴⁵

In turn, pursuant to recital 100 of the preamble of the Regulation, the analysis of the use of GOVSATCOM covers the area of humanitarian crises, maritime emergencies and border surveillance.

The Galileo navigation system also provides an “invaluable asset for coast-guards and border control authorities, ensuring faster rescue operations and the saving of more lives”.⁴⁶ At the moment the EUSPA is implementing a project dedicated to maritime security – *Galileo Advanced features for Maritime domain Breakthrough Applications for Safety and Security (GAMBAS)*,⁴⁷ under which the possibilities to use the Galileo system in preventing maritime disasters are analysed.

5. CONCLUSIONS

The aim of the analysis carried out here was to answer the question of why it was necessary to appoint a specialised decentralised agency for coherent and safe management of the EU Space Programme.

expanded with the financial support of the EU Space Programme COPERNICUS. A new service called Multipurpose Aerial Surveillance (M.A.S.) is currently being tested in the framework of the European Cooperation on Coast Guard Functions and of the tripartite working arrangement between EMSA, EFCA, and the Agency”.

⁴⁴ EUSPA, *Overwatch. Integrated holographic management map for safety and crisis events*, <https://www.euspa.europa.eu/integrated-holographic-management-map-safety-and-crisis-events> (accessed 18.08.2022).

⁴⁵ EUSPA, *MOBile NETwork for people’s location in natural and man-made disasters*, <https://www.euspa.europa.eu/mobile-network-peoples-location-natural-and-man-made-disasters> (accessed 18.08.2022).

⁴⁶ EUSPA, *Benefits*, <https://www.euspa.europa.eu/european-space/galileo/benefits> (accessed 12.02.2023).

⁴⁷ EUSPA, *Galileo Advanced Features for Maritime Domain Breakthrough Applications for Safety and Security*, <https://www.euspa.europa.eu/galileo-advanced-features-maritime-domain-breakthrough-applications-safety-and-security> (accessed 12.02.2023).

First, it needs to be emphasized that the Union holds shared competences to carry out space research and these competences are guaranteed under treaties. However, these competences are so specialised that it would be difficult to vest their implementation in the European Commission itself through one of the Directorates.

Agencies, as a form of administrative action, have been present in the administrative structure of the Union for a long time now and achieved great success in terms of development in the 1990s – thus the choice of the form of an agency to implement highly-specialised union policies is somewhat obvious. The eu-LISA, that is the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice, may act as an example of such a choice, next to the EUSPA discussed here.

The correctness of the choice of a decentralized agency as an entity responsible for implementing the EU space programme was also determined by agencies' shared features – the fact that they are permanent organs, with legal personality and thus independent as they function outside the Commission's Directorates. Moreover, agencies affiliate apolitical experts and implement the priority of new public management based on the commercial companies managing model. Thus, their manner of operation is more effective and predictable.

Running an effective space policy at the level of the European Union requires an expert panel on the one hand and safeguarding of the security of the programme on the other, which is the responsibility of the Security Accreditation Board. Moreover, it is necessary to ensure information flow and permanent cooperation between Member States. The organizational structure of an agency, here of the EUSPA, guarantees that these requirements are met.

Finally, it is worth emphasizing that the EUSPA's actions are an argument supporting the validity of breaking the Meroni doctrine, pursuant to which the possibility to delegate administrative functions to agencies not listed in the Treaty was, in the opinion of the Court of Justice, limited.⁴⁸

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⁴⁸ Judgment of the Court of 13 June 1958 in Meroni & Co., Industrie Metallurgiche, SpA v High Authority of the European Coal and Steel Community. Case 9-56, ECLI:EU:C:1958:7. See H. Lelieveldt, S. Princen, 2019, *op. cit.*, p. 271.

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