

Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation) (Text with EEA relevance)

CHAPTER I

**GENERAL PROVISIONS**

*Article 1*

**Objective and scope**

- 1 Within the scope of the framework Regulation, this Regulation concerns the interoperability of the EATMN.
- 2 This Regulation shall apply to the systems, their constituents and associated procedures identified in Annex I.
- 3 The objective of this Regulation is to achieve interoperability between the different systems, constituents and associated procedures of the EATMN, taking due account of the relevant international rules. This Regulation aims also at ensuring the coordinated and rapid introduction of new agreed and validated concepts of operations or technology in air traffic management.

CHAPTER II

**ESSENTIAL REQUIREMENTS, IMPLEMENTING RULES FOR INTEROPERABILITY AND COMMUNITY SPECIFICATIONS**

*Article 2*

**Essential requirements**

The EATMN, its systems and their constituents and associated procedures shall meet essential requirements. The essential requirements are set out in Annex II.

*Article 3*

**Implementing rules for interoperability**

- 1 Implementing rules for interoperability shall be drawn up whenever necessary to achieve in a coherent way the objectives of this Regulation.
- 2 Systems, constituents and associated procedures shall comply with the relevant implementing rules for interoperability throughout their lifecycle.
- 3 Implementing rules for interoperability shall in particular:

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- a determine any specific requirements that complement or refine the essential requirements, in particular in terms of safety, seamless operation and performance; and/or
  - b describe, where appropriate, any specific requirements that complement or refine the essential requirements, in particular regarding the coordinated introduction of new, agreed and validated concepts of operation or technologies; and/or
  - c determine the constituents when dealing with systems; and/or
  - d describe the specific conformity assessment procedures involving, where appropriate, notified bodies as referred to in Article 8, based on the modules defined in Decision 93/465/EEC to be used to assess either the conformity or the suitability for use of constituents as well as the verification of systems; and/or
  - e specify the conditions of implementation including, where appropriate, the date by which all relevant stakeholders are required to comply with them.
- 4 The preparation, adoption and review of implementing rules for interoperability shall take into account the estimated costs and benefits of technical solutions by means of which they may be complied with, with a view to defining the most viable solution, having due regard to the maintenance of an agreed high level of safety. An assessment of the costs and benefits of those solutions for all stakeholders concerned shall be attached to each draft implementing rule for interoperability.
- 5 Implementing rules for interoperability shall be established in accordance with the procedure under Article 8 of the framework Regulation.

#### *Article 4*

#### **Community specifications**

- 1 In pursuit of the objective of this Regulation, Community specifications may be established. Such specifications may be:
- a European standards for systems or constituents, together with the relevant procedures, drawn up by the European standardisation bodies in cooperation with Eurocae, on a mandate from the Commission in accordance with Article 6(4) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations<sup>(1)</sup> and pursuant to the general guidelines on cooperation between the Commission and the standardisation bodies signed on 13 November 1984;
  - or
  - b specifications drawn up by Eurocontrol on matters of operational coordination between air navigation service providers, in response to a request from the Commission in accordance with the procedure referred to in Article 5(2) of the framework Regulation.
- 2 Compliance with the essential requirements and/or the implementing rules for interoperability shall be presumed for systems, together with the associated procedures, or constituents that meet the relevant Community specifications and whose reference numbers have been published in the *Official Journal of the European Union*.
- 3 The Commission shall publish the references to the European standards referred to in paragraph 1(a) in the *Official Journal of the European Union*.

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4 The references to Eurocontrol specifications referred to in paragraph 1(b), shall be published by the Commission in the *Official Journal of the European Union* in accordance with the procedure referred to in Article 5(2) of the framework Regulation.

5 Where a Member State or the Commission considers that conformity with a published Community specification does not ensure compliance with the essential requirements and/or implementing rules for interoperability which the said Community specification is intended to cover, the procedure referred to in Article 5(2) of the framework Regulation shall apply.

6 In the case of shortcomings of published European standards, partial or total withdrawal of the standards concerned from the publications containing them, or amendments thereto, may be decided upon in accordance with the procedure referred to in Article 5(2) of the framework Regulation after consultation of the committee set up under Article 5 of Directive 98/34/EC.

7 In the case of shortcomings of published Eurocontrol specifications, partial or total withdrawal of the specifications concerned from the publications containing them, or amendment thereof, may be decided upon in accordance with the procedure referred to in Article 5(2) of the framework Regulation.

## CHAPTER III

### VERIFICATION OF COMPLIANCE

#### *Article 5*

##### **EC declaration of conformity or suitability for use of constituents**

1 Constituents shall be accompanied by an EC declaration of conformity or suitability for use. The elements of this declaration are set out in Annex III.

2 The manufacturer, or its authorised representative established in the Community, shall ensure and declare, by means of the EC declaration of conformity or suitability for use, that he has applied the provisions laid down in the essential requirements and in the relevant implementing rules for interoperability.

3 Compliance with the essential requirements and the relevant implementing rules for interoperability shall be presumed in relation to those constituents that are accompanied by the EC declaration of conformity or suitability for use.

4 The relevant implementing rules for interoperability shall identify, where appropriate, the tasks pertaining to the assessment of conformity or suitability for use of constituents to be carried out by the notified bodies referred to in Article 8.

#### *Article 6*

##### **EC declaration of verification of systems**

1 Systems shall be subject to an EC verification by the air navigation service provider in accordance with the relevant implementing rules for interoperability, in order to ensure that they meet the essential requirements of this Regulation and the implementing rules for interoperability, when integrated into the EATMN.

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2 Before a system is put into service, the relevant air navigation service provider shall establish an EC declaration of verification, confirming compliance, and shall submit it to the national supervisory authority together with a technical file. The elements of this declaration and of the technical file are set out in Annex IV. The national supervisory authority may require any additional information necessary to supervise such compliance.

3 The relevant implementing rules for interoperability shall identify, where appropriate, the tasks pertaining to the verification of systems to be carried out by the notified bodies as referred to in Article 8.

4 The EC declaration of verification shall be without prejudice to any assessments that the national supervisory authority may need to carry out on grounds other than interoperability.

### *[<sup>F1</sup> Article 6a*

#### **Alternative verification of compliance**

A certificate issued in accordance with Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency<sup>(2)</sup>, where it applies to constituents or systems, shall be considered, for the purposes of Articles 5 and 6 of this Regulation, as an EC declaration of conformity or suitability for use, or as an EC declaration of verification, if it includes a demonstration of compliance with the essential requirements of this Regulation and the relevant implementing rules for interoperability.]

#### **Textual Amendments**

- F1** Inserted by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (Text with EEA relevance).

### *Article 7*

#### **Safeguards**

1 Where the national supervisory authority ascertains that:

- a a constituent accompanied by an EC declaration of conformity or suitability for use, or
- b a system accompanied by the EC declaration of verification,

does not comply with the essential requirements and/or relevant implementing rules for interoperability, it shall, with due regard to the need to ensure safety and continuity of operations, take all measures necessary to restrict the area of application of the constituent or the system concerned or to prohibit its use by the entities under the responsibility of the authority.

2 The Member State concerned shall immediately inform the Commission of any such measures, indicating its reasons and, in particular, whether in its opinion non-compliance with the essential requirements is due to:

- a failure to meet the essential requirements;

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- b incorrect application of the implementing rules for interoperability and/or Community specifications;
- c shortcomings in the implementing rules for interoperability and/or Community specifications.

3 As soon as possible, the Commission shall consult the parties concerned. After such consultation, the Commission shall inform the Member State of its findings and of its opinion as to whether the measures taken by the national supervisory authority are justified.

4 Where the Commission establishes that the measures taken by the national supervisory authority are not justified, it shall request the Member State concerned to ensure that they are withdrawn without delay. It shall forthwith so inform the manufacturer or its authorised representative established in the Community.

5 Where the Commission establishes that non-compliance with the essential requirements is due to incorrect application of the implementing rules for interoperability and/or the Community specifications, the Member State concerned shall take appropriate measures against the originator of the declaration of conformity or suitability for use or the EC declaration of verification and shall inform the Commission and the other Member States thereof.

6 Where the Commission establishes that non-compliance with the essential requirements is due to shortcomings in the Community specifications, the procedures referred to in Article 4(6) or (7) shall apply.

#### *Article 8*

#### **Notified bodies**

1 Member States shall notify the Commission and the other Member States of the bodies they have appointed to carry out tasks pertaining to the assessment of conformity or suitability for use referred to in Article 5, and/or the verification referred to in Article 6, indicating each body's area of responsibility and its identification number obtained from the Commission. The Commission shall publish in the *Official Journal of the European Union* the list of bodies, their identification numbers and areas of responsibility, and shall keep the list updated.

2 Member States shall apply the criteria provided for in Annex V for the assessment of the bodies to be notified. Bodies meeting the assessment criteria provided for in the relevant European standards shall be deemed to meet the said criteria.

3 Member States shall withdraw notification of a notified body which no longer meets the criteria provided for in Annex V. It shall forthwith inform the Commission and the other Member States thereof.

4 Without prejudice to the requirements referred to in paragraphs 1, 2 and 3, Member States may decide to appoint organisations recognised in conformity with Article 3 of the service provision Regulation as notified bodies.

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## CHAPTER IV

### FINAL PROVISIONS

#### *[<sup>F2</sup>Article 9*

#### **Revision of Annexes**

Measures, designed to amend non-essential elements of the Annexes, in order to take into account technical or operational developments, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(4) of the framework Regulation.]

#### **Textual Amendments**

- F2** Substituted by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (Text with EEA relevance).

#### *Article 10*

#### **Transitional arrangements**

1 Starting from 20 October 2005, the essential requirements shall apply to the putting into service of systems and constituents of the EATMN, if not otherwise specified by the relevant implementing rules for interoperability.

2 Compliance with the essential requirements shall be required for all systems and constituents of the EATMN currently in operation by 20 April 2011, if not otherwise specified by the relevant implementing rules for interoperability.

[<sup>F1</sup>2a For the purposes of paragraph 2 of this Article, Member States may declare systems and constituents of the EATMN as compliant with the essential requirements and exempt from the provisions of Articles 5 and 6.]

3 Where systems of the EATMN have been ordered or binding contracts to that effect have been signed

- before the date of entry into force of this Regulation, or, where appropriate,
- before the date of entry into force of one or more relevant implementing rules for interoperability,

so that compliance with the essential requirements and/or the relevant implementing rules for interoperability cannot be guaranteed within the time limit mentioned in paragraph 1, the Member State concerned shall communicate to the Commission detailed information on the essential requirements and/or implementing rules for interoperability where uncertainty of compliance has been identified.

The Commission shall enter into consultation with the parties concerned, after which it shall take a decision in accordance with the procedure referred to in Article 5(3) of the framework Regulation.

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#### Textual Amendments

- F1** Inserted by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (Text with EEA relevance).

#### Article 11

##### Repeal

Directives 93/65/EEC and 97/15/EC and Regulations (EC) Nos 2082/2000 and 980/2002 shall be repealed on 20 October 2005.

#### Article 12

##### Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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- (1) OJ L 204, 21.7.1998, p. 37. Directive as last amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).
- (2) [<sup>F1</sup>OJ L 79, 19.3.2008, p. 1.]

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#### **Textual Amendments**

- F1** Inserted by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (Text with EEA relevance).



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