

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)

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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>(2)</sup>,

Having regard to the opinion of the Committee of the Regions<sup>(3)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>(4)</sup>, in the light of the joint text approved by the Conciliation Committee on 11 December 2003,

Whereas:

- (1) In order to create the Single European Sky, measures should be adopted in relation to systems, constituents and associated procedures with the objective of ensuring the interoperability of the European air traffic management network (EATMN) consistent with the provision of air navigation services as provided for in Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the service provision Regulation)<sup>(5)</sup> and the organisation and use of airspace as provided for in Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2003 on the organisation and use of the airspace in the Single European Sky (the airspace Regulation)<sup>(6)</sup>.
- (2) The report of the High Level Group on the Single European Sky has confirmed the need to establish technical regulation on the basis of the 'new approach' in accordance with the Council resolution of 7 May 1985 on a new approach to technical harmonisation and standards<sup>(7)</sup> where essential requirements, rules and standards are complementary and consistent.

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*Status: Point in time view as at 04/12/2009.*

*Changes to legislation: There are outstanding changes not yet made to Regulation (EC) No 552/2004 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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- (3) Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 (the framework Regulation)<sup>(8)</sup> lays down the framework for the creation of the Single European Sky.
- (4) The report of the High Level Group has confirmed that even though progress has been achieved during the last few years towards seamless operation of the EATMN, the situation still remains unsatisfactory, with a low level of integration between national air traffic management systems and a slow pace in the introduction of new concepts of operation and technology necessary to deliver the additional required capacity.
- (5) Enhancing the level of integration at Community level would result in better efficiency and lower costs for system procurement and maintenance and in improved operational coordination.
- (6) The predominance of national technical specifications used in procurement has led to fragmentation of the systems market and does not facilitate industrial cooperation at Community level; as a result, industry is particularly affected since it needs to considerably adapt its products for each national market; these practices render development and implementation of new technology unnecessarily difficult and slow down the introduction of new operational concepts that are required to increase capacity.
- (7) It is therefore in the interest of all those involved in air traffic management to develop a new partnership approach allowing the balanced involvement of all parties and stimulating creativity and the sharing of knowledge, experience and risks; such partnership should aim at defining, in cooperation with industry, a coherent set of Community specifications that can fulfil the widest possible range of needs.
- (8) The internal market is a Community objective and therefore measures taken under this Regulation should contribute to its progressive development in this sector.
- (9) It is therefore appropriate to define essential requirements which should apply to the European air traffic management network, its systems, constituents and associated procedures.
- (10) Implementing rules for interoperability should be drawn up for systems whenever necessary to complement or further refine the essential requirements; those rules should also be drawn up where necessary to facilitate the coordinated introduction of new, agreed and validated concepts of operation or technologies; compliance with those rules should be permanently maintained; those rules should rely on rules and standards developed by international organisations such as Eurocontrol or ICAO.
- (11) The development and adoption of Community specifications concerning EATMN, its systems and constituents and associated procedures is an appropriate means of defining the technical and operational conditions necessary to meet the essential requirements and relevant implementing rules for interoperability; compliance with published Community specifications, which remains voluntary, creates a presumption of conformity with the essential requirements and the relevant implementing rules for interoperability.

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- (12) Community specifications should be established by the European standardisation bodies in conjunction with the European Organisation for Civil Aviation Equipment (Eurocae) and by Eurocontrol, in accordance with general Community standardisation procedures.
- (13) The procedures governing the assessment of conformity or suitability for use of constituents should be based on the use of the modules covered by Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives<sup>(9)</sup>; as far as necessary, these modules should be expanded to cover specific requirements of the industries concerned.
- (14) The market concerned is of small size and consists of systems and constituents used almost exclusively for air traffic management purposes and not intended for the general public; it would be therefore excessive to affix the CE mark to constituents as, on the basis of the assessment of conformity and/or suitability for use, the manufacturer's declaration of conformity is sufficient; that should not affect the obligation on manufacturers to affix the CE mark to certain constituents in order to certify their compliance with other Community legislation relating to them.
- (15) The putting into service of air traffic management systems should be subject to verification of compliance with the essential requirements and relevant implementing rules for interoperability; use of Community specifications creates a presumption of conformity with the essential requirements and relevant implementing rules for interoperability.
- (16) The full application of this Regulation should be accomplished by means of a transitional strategy designed to attain the objectives of this Regulation while not creating unjustified cost-benefit barriers to preservation of the existing infrastructure.
- (17) Within the framework of the relevant Community legislation, due account should be taken of the need to ensure:
  - harmonised conditions with regard to the availability and efficient use of radio spectrum necessary for the implementation of the Single European Sky, including electromagnetic compatibility aspects,
  - protection of the safety-of-life services from harmful interference,
  - efficient and appropriate use of frequencies allocated to and managed exclusively by the aviation sector.
- (18) Council Directive 93/65/EEC of 19 July 1993 on the definition and use of compatible technical specifications for the procurement of air traffic management equipment and systems<sup>(10)</sup> is limited to obligations of awarding entities; this Regulation is more comprehensive in that it addresses obligations of all actors, including air navigation service providers, airspace users, industry and airports, and provides both for rules applicable to all and for the adoption of Community specifications which, while being voluntary, creates a presumption of conformity with the essential requirements. Therefore, Directive 93/65/EEC, Commission Directive 97/15/EC of 25 March 1997

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adopting Eurocontrol standards and amending Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air-traffic-management equipment and systems<sup>(11)</sup> and Commission Regulations (EC) No 2082/2000 of 6 September 2000 adopting Eurocontrol standards and amending Directive 97/15/EC<sup>(12)</sup> and (EC) No 980/2002 of 4 June 2002 amending Regulation (EC) No 2082/2000 should be repealed after a transitional period.

- (19) For reasons of legal certainty it is important to ensure that the substance of certain provisions of Community legislation adopted on the basis of Directive 93/65/EEC remains in force unchanged. The adoption under this Regulation of the implementing rules corresponding to such provisions will necessitate a certain amount of time,

HAVE ADOPTED THIS REGULATION:

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- (1) [OJ C 103 E, 30.4.2002, p. 41.](#)
- (2) [OJ C 241, 7.10.2002, p. 24.](#)
- (3) [OJ C 278, 14.11.2002, p. 13.](#)
- (4) Opinion of the European Parliament of 3 September 2002 ([OJ C 272 E, 13.11.2003, p. 325](#)), Council Common Position of 18 March 2003 ([OJ C 129 E, 3.6.2003, p. 26](#)) and position of the European Parliament of 3 July 2003 (not yet published in the Official Journal). Legislative resolution of the European Parliament of 29 January 2004 and Decision of the Council of 2 February 2004.
- (5) See page 10 of this Official Journal.
- (6) See page 20 of this Official Journal.
- (7) [OJ C 136, 4.6.1985, p. 1.](#)
- (8) See page 1 of this Official Journal.
- (9) [OJ L 220, 30.8.1993, p. 23.](#)
- (10) [OJ L 187, 29.7.1993, p. 52.](#) Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council ([OJ L 284, 31.10.2003, p. 1](#)).
- (11) [OJ L 95, 10.4.1997, p. 16.](#) Directive as last amended by Regulation (EC) No 2082/2000 ([OJ L 254, 9.10.2000, p. 1](#)).
- (12) [OJ L 254, 9.10.2000, p. 1.](#) Regulation as last amended by Regulation (EC) No 980/2002 ([OJ L 150, 8.6.2002, p. 38](#)).

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