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[...] (2023) **XXX** draft

Annex to EASA Opinion No 01/2023

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

laying down common requirements on aircraft equipment for the use of the single European sky airspace and repealing Regulation (EC) No 29/2009, Regulation (EU) No 1206/2011, Regulation (EU) No 1207/2011 and Regulation (EU) No 1079/2012

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 216/2008 and (EC) No 552/2004 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ⁽¹⁾, and in particular Articles 40(2) and 44(1)(a) thereof,

Having regard to Regulation (EC) No 551/2004 ⁽²⁾ of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Regulation (EU) 2018/1139, not later than 12 September 2023 the implementing rules adopted on the basis of the repealed Regulation (EC) No 552/2004 ⁽³⁾ shall be adapted to the provisions of Regulation (EU) 2018/1139.
- (2) In order to ensure the continuity in the application of the requirements for the use of aircraft equipment in the single European sky, the detailed required laid down in this Regulation should be based on the relevant implementing rules previously adopted on the basis of Regulation (EC) No 552/2004.
- (3) In particular, Commission Regulation (EC) No 29/2009 ⁽⁴⁾ lays down requirements on data link services for the single European sky, Commission Implementing Regulation (EU) No 1206/2011 ⁽⁵⁾ lays down requirements on aircraft identification for surveillance for the single European sky, Commission Implementing Regulation (EU) No 1207/2011 ⁽⁶⁾ lays down requirements for the performance and the interoperability of surveillance for the single European sky, and Commission Implementing Regulation (EU) No 1079/2012 ⁽⁷⁾ lays down requirements for voice channels spacing for the single

(1) [OJ L 212, 22.08.2018, p. 1.](#)

(2) [OJ L 96, 31.3.2004, p. 20.](#)

(3) 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) ([OJ L 96, 31.3.2004, p. 26.](#))

(4) [OJ L 13, 17.1.2009, p. 3.](#)

(5) [OJ L 305, 23.11.2011, p. 23.](#)

(6) [OJ L 305, 23.11.2011, p. 35.](#)

(7) [OJ L 320, 17.11.2012, p. 14.](#)

European sky, which address detailed provisions concerning the operating rules related to the use of airspace and aircraft equipment required for the use of airspace.

- (4) It is also appropriate that these rules continue to apply to all aircraft operators that are engaged in general air traffic in the Single European Sky airspace, in all phases of flight and on the movement area of an aerodrome, in accordance with Regulation (EC) 551/2004.
- (5) Commission Regulation (EC) No 29/2009, Commission Implementing Regulation (EU) No 1206/2011, Commission Implementing Regulation (EU) No 1207/2011 and Commission Implementing Regulation (EU) No 1079/2012 should therefore be repealed.
- (6) In accordance with Article 1(2) of Regulation (EC) No 549/2004 ⁽⁸⁾, the regulatory framework for the creation of the single European sky does not cover state aircraft (including military, customs and police aircraft) during operations and training.
- (7) The European Union Aviation Safety Agency has prepared draft implementing rules and submitted them to the Commission with Opinion No ... /2023 in accordance with points (b) and (c) of Article 75(2) and with Article 76(1) of Regulation (EU) 2018/1139.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 127(1) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down requirements on aircraft equipment and operating procedures for the use of the single European sky airspace.
2. This Regulation shall apply to aircraft operators that are engaged in general air traffic and operate into, within or out of the single European sky airspace.
3. This Regulation shall also apply to the Member States in order to ensure that the activities and operations in which the airspace users referred to in paragraph (2) are engaged are carried out while taking into account the safety objectives of this Regulation.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. ‘acceptable means of compliance (AMC)’ means non-binding standards adopted by the Agency to illustrate means to establish compliance with Regulation (EU) 2018//1139 and this Regulation;

⁽⁸⁾ Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ([OJ L 96, 31.3.2004, p. 1](#)).

2. ‘air traffic control unit’ (ATC unit) means a generic term that variously refers to area control centre, approach control unit, or aerodrome control tower;
3. ‘alternative means of compliance (AltMOC)’ means those means of compliance that propose an alternative to an existing AMC or those that propose new means to establish compliance with Regulation (EU) 2018/1139 and this Regulation for which no associated AMC have been adopted by the Agency;
4. ‘data link service’ means a set of related air traffic management transactions, supported by air–ground data link communications, which have a clearly defined operational goal and begin and end an operational event;
5. ‘offset carrier operation’ means a case where the designated operational coverage cannot be ensured by a single ground transmitter, and where the signals from two or more ground transmitters are offset from the nominal channel centre frequency in order to minimise interference problems;
6. ‘transport-type aircraft’ means fixed-wing State aircraft that are designed for the purpose of transporting persons and/or cargo.
7. ‘general air traffic’ means all movements of civil aircraft and State aircraft (including military, customs and police aircraft) carried out in conformity with the procedures of the International Civil Aviation Organization (‘ICAO’);

Article 3

Requirements on airspace usage

Aircraft operators shall ensure that their aircraft are equipped and operated in accordance with the rules and procedures specified in Annexes I (Part-COM), II (Part-NAV) and III (Part-SUR) according to the equipment requirements for the use of the airspace concerned.

Article 4

Means of compliance

1. The Agency shall develop Acceptable Means of Compliance (AMC) that may be used to demonstrate compliance with Regulation (EU) 2018/1139 and this Regulation.
2. Alternative means of compliance (AltMoC) may be used to demonstrate compliance with Regulation (EU) 2018/1139 and this Regulation.
3. The competent authority shall establish a system to consistently evaluate that all alternative means of compliance used by organisations under its oversight allow for the establishment of compliance with Regulation (EU) No 2018/1139 and this Regulation.
4. The competent authority shall evaluate all alternative means of compliance proposed by an organisation by analysing the documentation provided and, if considered necessary, conducting an inspection of the organisation .

When the competent authority finds that the alternative means of compliance are in accordance with Regulation (EU) 2018/1139 and this Regulation, it shall without undue delay:

- (a) notify the organisation that the alternative means of compliance may be used and, if applicable, amend the approval or certificate of the organisation accordingly;
- (b) notify the Agency of their content, including copies of all relevant documentation, in those cases where the competent authority is not the Agency.

Article 5

Derogations

1. Member States shall communicate to the European Commission any updates to the list of State aircraft that cannot be equipped with secondary surveillance radar transponders complying with the requirements set out in point AUR.SUR.2020 of Annex III (Part-SUR), together with a justification as regards non-equipage, which they previously communicated to the Commission in accordance with Regulation (EU) No 1207/2011.

Further, Member States shall communicate to the European Commission any updates to the list of transport-type aircraft of a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots which cannot be equipped with secondary surveillance radar transponders complying with the requirements set out in point AUR.SUR.2005 of Annex III (Part-SUR), together with a justification as regards non-equipage, which they previously communicated to the Commission in accordance with Regulation (EU) No 1207/2011.

2. The justification as regards non-equipage shall be one of the following:
 - (a) compelling technical constraints;
 - (b) State aircraft operating in accordance with point AUR.SUR.1001 of Annex III (Part-SUR), which will be withdrawn from operational service by 1 January 2024 at the latest;
 - (c) procurement constraints.
3. Where State aircraft cannot be equipped with secondary surveillance radar transponders for any of the reasons set out in paragraph (2)(c), Member States shall include in the justification their procurement plans regarding such aircraft.
4. Member States may allow non-compliance of State aircraft with Subpart 3 of Annex I (Part-COM) due to:
 - (a) compelling technical or budgetary constraints; and/or
 - (b) procurement constraints.

In this context, without prejudice to national procedures for the communication of information on State aircraft, Member States shall communicate to the European Commission any updates to the list of State aircraft that cannot be equipped with radios

having the 8.33 kHz channel spacing capability, which they previously communicated to the Commission in accordance with Regulation (EU) No 1079/2012.

Article 6

Repeal

1. Regulation (EC) No 29/2009 is repealed.
2. Regulation (EU) No 1206/2011 is repealed.
3. Regulation (EU) No 1207/2011 is repealed.
4. Regulation (EU) No 1079/2012 is repealed.

Article 7

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.

Done at Brussels,

For the Commission

The President

[...]

ANNEX I

Communication (Part-COM)

SUBPART 1 — GENERAL

AUR.COM.1001 Scope

This Annex applies to aircraft operators when their aircraft that operate as general air traffic are provided with communication service within the single European sky airspace defined in Article 1(1) of this Regulation.

SUBPART 2 — DATA LINK SERVICES

AUR.COM.2001 Requirements on aircraft equipage

- (a) Within the airspace defined in Article 1(1), with the exception of overseas territories as defined in Annex II to the Treaty on European Union and the Treaty on the Functioning of the European Union⁽⁹⁾, Finland UIR north of 61°30', and Sweden UIR north of 61°30', for flights operating as general air traffic in accordance with instrument flight rules above FL 285, the aircraft operator shall:
- (1) ensure that aircraft have the capability to operate the data link services as follows:
 - (i) Data Link Communications Initiation Capability;
 - (ii) ATC Communications Management;
 - (iii) ATC Clearances and Information;
 - (iv) ATC Microphone Check.
 - (2) make appropriate arrangements to ensure that data exchange can be established between their aircraft having data link capability and all ATC units which may control the flights they operate, with due regard to possible coverage limitations inherent in the communication technology used.
- (b) Point (a) shall not apply to:
- (1) aircraft with an individual certificate of airworthiness first issued before 1 January 1995;
 - (2) aircraft with an individual certificate of airworthiness first issued before 1 January 2018 and fitted prior to this date with a data link equipment ensuring interoperability of the ATS applications over ACARS (Aircraft Communications Addressing and Reporting System) air-ground network, used primarily where radar surveillance is not practical;

⁽⁹⁾ [2012/C 326/01](#).

- (3) aircraft of a certified maximum seating capacity of 19 passengers or fewer and a maximum certified take-off mass of 45 359 kg (100 000 lb) or less and with an individual certificate of airworthiness first issued before 5 February 2020;
- (4) State aircraft;
- (5) aircraft flying for testing, delivery or for maintenance purposes or with data link constituents temporarily inoperative under the conditions specified in the applicable minimum equipment list;
- (6) aircraft types and models exempted in accordance with Commission Implementing Decision (EU) 2019/2012 of 29 November 2019 on exemptions under Article 14 of Commission Regulation (EC) No 29/2009 laying down requirements on data link services for the single European sky ⁽¹⁰⁾.

AUR.COM.2005 DLS operating procedures and training

Aircraft operators shall take the necessary measures to ensure that:

- (a) their operating procedures are compliant with this Regulation and are reflected in their operations manuals; and
- (b) the personnel operating data link equipment are made duly aware of this Regulation and are adequately trained for their job functions.

SUBPART 3 — VOICE CHANNEL SPACING

AUR.COM.3001 Scope

This Subpart applies to the airspace where voice air–ground and ground–ground radio communications services in the 117.975–137 MHz frequency band are provided for all flights operating as general air traffic within the single European sky airspace.

AUR.COM.3005 Requirements on aircraft equipage

Aircraft operators shall ensure that all voice communication equipment put into service includes the 8.33 kHz channel spacing capability and is able to tune to 25 kHz spaced channels.

AUR.COM.3010 Equipage requirements for State aircraft

- (a) Whenever the radios installed on-board State aircraft are subject to radio upgrades, the new radios shall have the 8.33 kHz channel spacing capability.
- (b) All State aircraft shall be equipped with radios having the 8.33 kHz channel spacing capability, except those that will have been withdrawn from operational service by 31 December 2025.
- (c) New State aircraft shall be equipped with radios having the 8.33 kHz channel spacing capability.

⁽¹⁰⁾ OJ L 312, 3.12.2019, p. 95.

ANNEX II
Navigation
(Part-NAV)

RESERVED

ANNEX III

Surveillance

(Part-SUR)

SUBPART 1 — GENERAL

AUR.SUR.1001 Scope

This Annex applies to the aircraft operators when their aircraft that operate as general air traffic are provided with surveillance service in accordance with instrument flight rules within the single European sky airspace as defined in Article 1(1) of this Regulation with the exception of point AUR.SUR.2015 which shall apply to all flights operating as general air traffic.

AUR.SUR.1005 Surveillance operating procedures and training

Aircraft operators shall take the necessary measures to ensure that:

- (a) their operating procedures are compliant with this Regulation and are reflected in their operations manuals; and
- (b) the personnel operating surveillance equipment are made duly aware of this Regulation and are adequately trained for their job functions.

SUBPART 2 — DEPENDENT COOPERATIVE SURVEILLANCE

AUR.SUR.2005 Requirements on aircraft equipage

- (a) Aircraft operators shall ensure that:
 - (1) aircraft are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
 - (i) they have the capabilities for airborne Mode S Elementary Surveillance (ELS);
 - (ii) they have the continuity sufficient to avoid presenting an operational risk;
 - (2) aircraft of a maximum certified take-off mass exceeding 5 700 kg or that have a maximum cruising true airspeed capability greater than 250 kt, with an individual certificate of airworthiness first issued on or after 7 June 1995, are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
 - (i) they have the capabilities for 1090 MHz Extended Squitter (ES) automatic dependent surveillance-broadcast (ADS-B) Out, in addition to point (1)(i);
 - (ii) they have the continuity sufficient to avoid presenting an operational risk;
 - (3) fixed-wing aircraft of a maximum certified take-off mass exceeding 5 700 kg or that have a maximum cruising true airspeed capability greater than 250 kt, with an individual certificate of airworthiness first issued on or after 7 June 1995, are

equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:

- (i) they have the capabilities for airborne Mode S Enhanced Surveillance (EHS), in addition to points (1)(i) and (2)(i);
 - (ii) they have the continuity sufficient to avoid presenting an operational risk.
- (b) Points (2) and (3) of point (a) shall not apply to aircraft that belong to one of the following categories:
- (1) aircraft being flown to undergo maintenance;
 - (2) aircraft being flown for export;
 - (3) aircraft whose operation will cease by 31 October 2025.
- (c) Operators of aircraft with an individual certificate of airworthiness first issued before 7 December 2020 shall comply with points (2) and (3) of point (a), subject to the following conditions:
- (1) they have established before 7 December 2020 a retrofit programme demonstrating compliance with points (2) and (3) of point (a);
 - (2) those aircraft have not benefitted from any Union funding granted to bring such aircraft in compliance with the requirements set out in points (2) and (3) of point (a).
- (d) Aircraft operators shall ensure that aircraft equipped in accordance with points (a) to (c) and of a maximum certified take-off mass exceeding 5 700 kg or that have a maximum cruising true airspeed capability greater than 250 kt, operate with antenna diversity.

AUR.SUR.2010 Inoperative transponder

For aircraft, including State aircraft, where the capability of the transponders to comply with the requirements of points (2) and (3) of point AUR.SUR.2005(a) is temporarily inoperative, aircraft operators shall be entitled to operate those aircraft for a maximum of 3 consecutive days.

AUR.SUR.2015 Transponder 24-bit ICAO aircraft address

Aircraft operators shall ensure that on board the aircraft they are operating, any Mode S transponder operates with a 24-bit ICAO aircraft address that corresponds to the registration that has been assigned by the State in which the aircraft is registered.

AUR.SUR.2020 Equipage requirements for State aircraft

- (a) State aircraft shall comply with point (a)(1) of point AUR.SUR.2005.
- (b) Transport-type aircraft shall comply with point (a)(3) of point AUR.SUR.2005.