

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1770**of 12 September 2023****laying down provisions on aircraft equipment required for the use of the Single European Sky airspace and operating rules related to the use of the Single European Sky airspace and repealing Regulation (EC) No 29/2009 and Implementing Regulations (EU) No 1206/2011, (EU) No 1207/2011 and (EU) No 1079/2012**

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 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91⁽¹⁾, and in particular Article 44(1), point (a) thereof,

Whereas:

- (1) In accordance with Article 140(2) of Regulation (EU) 2018/1139, the implementing rules adopted on the basis of the repealed Regulation (EC) No 552/2004 of the European Parliament and of the Council⁽²⁾ are to be adapted to the provisions of Regulation (EU) 2018/1139, not later than 12 September 2023.
- (2) Operating procedures for the use of airspace and the required aircraft equipment should be uniformly applied within the Single European Sky airspace in compliance with the essential requirements set out in point 1 of Annex VIII to Regulation (EU) 2018/1139, for the achievement of interoperability and safe operations. Those requirements therefore should be imposed on operators of aircraft when they fly into, within, or out of the Single European Sky airspace.
- (3) In order to ensure the continuity of aircraft operations with equipped Communication, Navigation, and Surveillance capabilities for the use of the Single European Sky airspace, this Regulation should be based on the relevant implementing rules adopted on the basis of Regulation (EC) No 552/2004 with necessary adaptations.
- (4) In particular, Commission Regulation (EC) No 29/2009⁽³⁾, Implementing Regulations (EU) No 1206/2011⁽⁴⁾, (EU) No 1207/2011⁽⁵⁾ and (EU) No 1079/2012⁽⁶⁾ address detailed provisions concerning the operating rules related to the use of airspace and aircraft equipment. Regulation (EC) No 29/2009 and Implementing Regulations (EU) No 1206/2011, (EU) No 1207/2011 and (EU) No 1079/2012 should therefore be repealed.
- (5) Whenever possible, the existing requirements stemming from those Regulations should be replicated in this Regulation in order to respect the legitimate expectations of aircraft operators and ATM/ANS providers affected by those requirements.

⁽¹⁾ OJ L 212, 22.8.2018, p. 1.

⁽²⁾ 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).

⁽³⁾ Commission Regulation (EC) No 29/2009 of 16 January 2009 laying down requirements on data link services for the single European sky (OJ L 13, 17.1.2009, p. 3).

⁽⁴⁾ Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky (OJ L 305, 23.11.2011, p. 23).

⁽⁵⁾ Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky (OJ L 305, 23.11.2011, p. 35).

⁽⁶⁾ Commission Implementing Regulation (EU) No 1079/2012 of 16 November 2012 laying down requirements for voice channels spacing for the single European sky (OJ L 320, 17.11.2012, p. 14).

- (6) It is appropriate that those requirements continue to apply to aircraft operators that operate as general air traffic in the Single European Sky airspace, during all phases of flight and in the movement area of an aerodrome, with the exception of aircraft referred to in Article 2(3), point (a), of Regulation (EU) 2018/1139. Member States should be responsible for ensuring that operations of these aircraft have due regard for the safety of navigation of all other aircraft. Member States may, however, decide to apply this Regulation to those aircraft.
- (7) In line with the scope of Regulation (EC) No 29/2009, this Regulation should provide for the same exceptions to datalink requirements as granted under Commission Implementing Decision (EU) 2019/2012 ⁽⁷⁾.
- (8) Article 14(2) of Implementing Regulation (EU) No 1079/2012 provided for exemptions from the obligation to operate an aircraft where radio is required with its radio equipment having 8,33 kHz channel spacing capability. This Regulation should not alter the existing exemptions.
- (9) The development of requirements in this Regulation have taken due account of the content of the ATM Master Plan and the communication, navigation and surveillance capabilities contained in it.
- (10) With its Opinion 01/2023, the European Union Aviation Safety Agency has prepared and submitted to the Commission draft implementing rules in accordance with Article 75(2), points (b) and (c), and Article 76(1) of Regulation (EU) 2018/1139.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the committee established in accordance with Article 127 of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down operating rules related to the use of airspace and requirements on aircraft equipment required for the safe and uniform operation within the Single European Sky airspace.
2. This Regulation shall apply to operators of aircraft referred to in Article 2(1), points (b) (i) and (ii) and Article 2(1), point (c), of Regulation (EU) 2018/1139 that are engaged in general air traffic and operate into, within or out of the Single European Sky airspace.

Article 2

Definitions

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

- (1) 'air traffic control unit' (ATC unit) means a generic term meaning variously, area control centre, approach control unit, or aerodrome control tower;
- (2) '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 which begin and end on an operational event;
- (3) '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.

⁽⁷⁾ 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 (OJ L 312, 3.12.2019, p. 95).

*Article 3***Aircraft equipment and operating rules**

Aircraft operators shall ensure that their aircraft are equipped and operated in accordance with the rules and procedures set out in Annex I (Part-COM) and Annex II (Part-SUR).

*Article 4***Means of compliance**

1. The Agency shall develop acceptable means of compliance ('AMC') that may be used to establish compliance with this Regulation, Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.
2. Alternative means of compliance may be used to establish compliance with this Regulation.
3. Competent authorities shall establish a system to consistently evaluate whether the alternative means of compliance used by themselves or by organisations under their oversight comply with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.
4. Competent authorities shall inform the Agency of any alternative means of compliance used by natural or legal persons under their oversight or by themselves for establishing compliance with this Regulation.

*Article 5***Repeal**

Regulations (EC) No 29/2009 and Implementing Regulations (EU) No 1206/2011, (EU) No 1207/2011 and (EU) No 1079/2012 are repealed.

*Article 6***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, 12 September 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Communication**(Part-COM)****AUR.COM.1001 Subject**

This Part lays down requirements on aircraft equipment and operating rules with regard to the use of airspace covering the applicable requirements on data link services and voice channel spacing.

TITLE 1 – DATA LINK SERVICES

AUR.COM.2001 Scope

This Title applies only to flights operating as general air traffic in accordance with instrument flight rules above FL 285 within the Single European Sky airspace, excluding the airspace that is not part of the International Civil Aviation Organisation (ICAO) EUR region and Finland Upper Flight Information Region (UIR) north of 61°30', and Sweden UIR north of 61°30'.

AUR.COM.2005 Requirements on aircraft equipment

1. The aircraft operator shall:
 - (a) ensure that any aircraft it operates have the capability to operate the following data link services:
 - (i) Data Link Communications Initiation Capability;
 - (ii) Air Traffic Control (ATC) Communications Management;
 - (iii) ATC Clearances and Information;
 - (iv) ATC Microphone Check.
 - (b) make appropriate arrangements to ensure that data exchange can be established between its aircraft having data link capability and all ATC units which may control the flights it operates, with due regard to possible coverage limitations inherent in the communication technology used.
2. Point 1 shall not apply to:
 - (a) aircraft with an individual certificate of airworthiness first issued before 1 January 1995;
 - (b) 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 Aircraft Communications Addressing and Reporting System (ACARS) air-ground network, used primarily where radar surveillance is not practical;
 - (c) aircraft of a certified maximum seating capacity of 19 passengers or less, 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;
 - (d) 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;
 - (e) aircraft types and models combinations listed in Appendix I;
 - (f) aircraft types and models combinations listed in Appendix II having the first individual certificate of airworthiness issued prior to 5 February 2020.

AUR.COM.2010 DLS operating procedures and training

Aircraft operators shall take the necessary measures to ensure that:

- (a) their operating procedures are compliant with this Title and are reflected in their operations manuals; and

- (b) the personnel operating data link equipment are made duly aware of this Title and are adequately trained for their job functions.

TITLE 2 – VOICE CHANNEL SPACING

AUR.COM.3001 Scope

This Title applies only to flights operating as general air traffic within the Single European Sky airspace that is part of the ICAO EUR region, and where voice air-ground and ground-ground radio communications services in the 117,975–137 MHz frequency band are provided. Canarias Flight Information Region (FIR)/UIR are excluded from the scope of application.

AUR.COM.3005 Requirements on aircraft equipment

- (1) Aircraft operators shall ensure that all voice communication equipment put into service after 17 November 2013 includes the 8,33 kHz channel spacing capability and is able to tune to 25 kHz spaced channels.
 - (2) The exemptions from the obligation to operate an aircraft where radio is required with its radio equipment having 8,33 kHz channel spacing capability for cases with limited impact on the network granted by the Member States pursuant to Article 14(2) of Implementing Regulation (EU) No 1079/2012 that were communicated to the Commission shall remain valid.
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Appendix I

Exemptions referred to in point (e) of AUR.COM.2005 (2)

Aircraft type/series/model	Manufacturer	ICAO type designator
AN-12 all	Antonov	AN12
AN-124 100	Antonov	A124
IL-76 all	Ilyushin	IL76
A300 all	Airbus	A30B A306 A3ST
A310 all	Airbus	A310
A-319/-320/-321 with a first Certificate of Airworthiness issued between 1 January 1995 and 5 July 1999 inclusive	Airbus	A319 A320 A321
A340 all	Airbus	A342 A343 A345 A346
A318-112	Airbus	A318
AVROLINER (RJ-100)	AVRO	RJ1H
AVROLINER (RJ-85)	AVRO	RJ85
BA146-301	British Aerospace	B463
B717-200	Boeing	B712
B737-300	Boeing	B733
B737-400	Boeing	B734
B737-500	Boeing	B735
B747-400	Boeing	B744
B757-200	Boeing	B752
B757-300	Boeing	B753
B767-200	Boeing	B762
B767-300	Boeing	B763
B767-400	Boeing	B764
MD-82	Boeing	MD82
MD-83	Boeing	MD83
MD-11 all	Boeing	MD11
CL-600-2B19 (CRJ100/200/440)	Bombardier	CRJ1/CRJ2
Dornier 328-100	Dornier	D328
Dornier 328-300	Dornier	J328
Fokker 70	Fokker	F70
Fokker 100	Fokker	F100

King Air series (90/100/200/300)	Beechcraft	BE9L BE20 B350
Hercules L-382-G-44K-30	Lockheed	C130
SAAB 2000/SAAB SF2000	SAAB	SB20

Appendix II

Exemptions referred to in point (f) of AUR.COM.2005 (2)

Aircraft type/series/model	Manufacturer	ICAO type designator
A330 Series 200/300	Airbus	A332/A333
Global Express/5000 BD-700-1A10/1A11	Bombardier	GLEX/GL5T
CL-600-2C10 (CRJ-700)	Bombardier	CRJ7
C525C, CJ4	Cessna	C25C
C560XL (Citation XLS+)	Cessna	C56X
Falcon 2000 all	Dassault	F2TH
Falcon 900 all	Dassault	F900
EMB-500 (Phenom 100)	Embraer	E50P
EMB-505 (Phenom 300)	Embraer	E55P
EMB-135BJ (Legacy 600)	Embraer	E35L
EMB-135EJ (Legacy 650)	Embraer	E35L
EMB-145 (135/140/145)	Embraer	E135 E145, E45X
PC-12	Pilatus	PC12

ANNEX II

Surveillance**(Part-SUR)****AUR.SUR.1001 Subject matter**

This Part lays down requirements on aircraft equipment and operating rules with regard to the use of airspace covering the applicable requirements on surveillance.

TITLE 1 – DEPENDENT COOPERATIVE SURVEILLANCE

AUR.SUR.2001 Scope

- (1) This Title applies only to flights that operate as general air traffic in accordance with instrument flight rules within the Single European Sky airspace that is part of the International Civil Aviation Organisation (ICAO) EUR region.
- (2) Notwithstanding paragraph (1), AUR.SUR.2015 shall apply to all flights operating as general air traffic.

AUR.SUR.2005 Requirements on aircraft equipment

1. Aircraft operators shall ensure that:
 - (a) 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 sufficient continuity to avoid presenting an operational risk;
 - (b) 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 1 090 MHz Extended Squitter (ES) automatic dependent surveillance-broadcast (ADS-B) Out, in addition to capabilities referred to in point (a)(i);
 - (ii) they have sufficient continuity to avoid presenting an operational risk;
 - (c) 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 capabilities referred to in points (a)(i) and (b)(i);
 - (ii) they have the continuity sufficient to avoid presenting an operational risk.
2. Points 1(b) and (c) shall not apply to aircraft that belong to one of the following categories:
 - (a) aircraft being flown to undergo maintenance;
 - (b) aircraft being flown for export;
 - (c) aircraft whose operation will cease by 31 October 2025.
3. Operators of aircraft with an individual certificate of airworthiness first issued before 7 December 2020 shall comply with points 1(b) and (c), subject to the following conditions:
 - (a) they have established before 7 December 2020 a retrofit programme demonstrating compliance with points 1(b) and (c);

- (b) those aircraft have not benefitted from any Union funding granted to bring such aircraft in compliance with the requirements set out in points 1(b) and (c).
4. Aircraft operators shall ensure that aircraft equipped in accordance with points 1, 2 and 3 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 where the capability of the transponders to comply with the requirements laid down in points 1(b) and (c) of point AUR.SUR.2005 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 Surveillance operating procedures and training

Aircraft operators shall take the necessary measures to ensure that:

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