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| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 14 July 2023 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |

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| No. Cion doc.: | C(2023) 4705 final |
| Subject: | COMMISSION DELEGATED REGULATION (EU) .../... of 14.7.2023 laying down detailed rules for the certification and declaration of air traffic management/air navigation services systems and air traffic management/air navigation services constituents |

Delegations will find attached document C(2023) 4705 final.

Encl.: C(2023) 4705 final



Brussels, 14.7.2023
C(2023) 4705 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 14.7.2023

**laying down detailed rules for the certification and declaration of air traffic
management/air navigation services systems and air traffic management/air navigation
services constituents**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The EASA Basic Regulation (Regulation (EU) 2018/1139)⁽¹⁾ lays down rules on the provision of ATM/ANS in the Single European Sky airspace, and the design, production, maintenance and operation of systems and constituents used in the provision of those ATM/ANS and mandates the development of the related delegated acts as regards the conditions for establishing and notifying to an applicant the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents for the purposes of certification of ATM/ANS systems and ATM/ANS constituents and of declarations by ATM/ANS providers.

At the same time, Regulation (EC) No 552/2004⁽²⁾ (the interoperability Regulation) was repealed by the Basic Regulation, but Article 139 of Regulation (EU) 2018/1139 establishes the transitional provisions whereby certain provisions of the interoperability Regulation remain applicable until the date of application of the related delegated acts and insofar as those acts cover the subject matter of the relevant provisions of the interoperability Regulation, and in any case not later than 12 September 2023.

In this context, it is necessary to introduce a new regulatory framework on the basis of empowerment established in Regulation (EU) 2018/1139 in relation to ATM/ANS systems and ATM/ANS constituents (referred to as ‘ATM/ANS equipment’) that ensures the safe, interoperable, and efficient provision of ATM/ANS. The current proposal provides for a scaled approach with respect to ATM/ANS ground equipment. The more risk exposed equipment will need a certification by the European Union Aviation Safety Agency (‘the Agency’), whereas other equipment would either require a Declaration issued by the Design or Production Organisation (DPO) or a Statement of Compliance issued by the ATM/ANS provider or a DPO on its behalf. For the first five years after the entering into force of the new regulatory framework transitional provisions will be applied allowing ATM/ANS providers to issue Statement of Compliances based on existing supporting evidence for all existing ATM/ANS equipment.

The requirements proposed would establish the criteria and conditions to determine the need for certification or for declaration of certain ATM/ANS equipment based on its safety criticality and benefits for the relevant stakeholders.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with Article 128(4) of Regulation (EU) 2018/1139, before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. The draft delegated act was presented to the Air Safety experts group, which includes representatives from the Member States, at its meeting on 28 June 2023. The present delegated act is based on EASA Opinion No 01/2023 whose contents had been publicly

¹ [OJ L 212, 22.8.2018, p. 1](#)

² [OJ L 96, 31.3.2004, p. 26](#)

consulted through Notice of Proposed Amendment (NPA) 2022-09 ‘Establishment of a regulatory framework on the conformity assessment of ATM/ANS systems and ATM/ANS constituents (ATM/ANS equipment)’ (RMT.0161 Subtask 1), published by EASA on 16 August 2022.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 47(1) of Regulation (EU) 2018/1139 empowers the Commission to adopt delegated acts, in accordance with Article 128 of that Regulation, laying down detailed rules with regard to:

- the conditions for establishing and notifying to an applicant the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents for the purposes of certification in accordance with Article 45(2) of that Regulation;
- the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 45(2) of the same Regulation, and for the situations in which, with a view to achieving the objectives set out in Article 1 of that Regulation and while taking account of the nature and risk of the particular activity concerned, such certificates are to be required or declarations are to be permitted, as applicable;
- the privileges and responsibilities of the holders of certificates referred to in Article 45(2) of that Regulation;
- the privileges and responsibilities of the organisations issuing declarations in accordance with Article 45(1) and (2) of that Regulation;
- the conditions and procedures for the declaration by ATM/ANS providers, in accordance with Article 45(1), and for the situations in which, with a view to achieving the objectives set out in Article 1 of that Regulation and while taking account of the nature and risk of the particular activity concerned, such declarations are to be required;
- the conditions for establishing the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents which are subject to a declaration in accordance with Article 45(1) and (2) of that Regulation.

In addition, under Article 62(13), with regard to the tasks of the Agency related to certification, oversight and enforcement under Regulation (EU) 2018/1139, the Commission is empowered to adopt delegated acts, in accordance with Article 128 of that Regulation, laying down detailed rules concerning the conditions for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the Agency of the natural and legal persons, ATM/ANS systems and ATM/ANS constituents, subject to the referenced Regulation.

COMMISSION DELEGATED REGULATION (EU) .../...

of 14.7.2023

laying down detailed rules for the certification and declaration of air traffic management/air navigation services systems and air traffic management/air navigation services constituents

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 3922/91³, and in particular Articles 47(1) and 62(13),

Whereas:

- (1) Regulation (EU) 2018/1139 establishes common essential requirements to provide for a high uniform level of civil aviation safety in the Union and to ensure that the integrity and safety-related performance of systems and constituents are fit for their intended purpose. The interoperability of the air traffic management/air navigation service (ATM/ANS) systems and ATM/ANS constituents should ensure the seamless operation of the European air traffic management network (EATMN).
- (2) Detailed specifications should be established to ensure compliance with the essential requirements; those detailed specifications should whenever possible rely on recognised industry standards from Standards Developing Organisations (SDOs) that reflect the state of the art and best design practices. The design and production of ATM/ANS systems and ATM/ANS constituents should be carried out with consideration given to requirements to issue certification and declarations of design compliance and in line with detailed specifications issued by the European Union Aviation Safety Agency ('the Agency').
- (3) It is appropriate to establish different attestation methods for assessing conformity with the requirements set out in an Annex to this Regulation and detailed specifications of ATM/ANS systems and ATM/ANS constituents. More stringent attestation methods should be used as regards the safe operation of aircraft, and as regards equipment that is critical in terms of the interoperability and security of the EATMN.
- (4) Within the ATM/ANS, the air traffic control (ATC) services are the most important as regards the safety risks related to navigation of aircraft, in particular due to issuing instructions to ensure aircraft separation and collision avoidance. Providers of ATC have the most complete view regarding the safety of the airspace. Therefore, the most

³ [OJ L 212, 22.8.2018, p. 1.](#)

critical ATM/ANS equipment, namely the equipment supporting ATC should be subject to more stringent attestation methods, namely certification.

- (5) ATM/ANS equipment that supports air-to-ground communications delivers direct instructions to aircraft and should be subject to certification too.
- (6) The Communication, Surveillance, and Navigation services are used directly by the ATS to ensure safe navigation of aircraft, but the three services referred to do not have a complete view of traffic and do not play an active control over aircraft separation. Consequently, they play a less critical role. The ATM/ANS systems and ATM/ANS constituents that support them should be subject to a less stringent attestation method, namely declaration of design compliance.
- (7) Lastly, other less critical ATM/ANS systems and equipment that support meteorological services, aeronautical information services, airspace management services and air traffic flow management services should be subject to the least stringent attestation method, namely statement of compliance.
- (8) Additional criteria are possible to decide on criticality of ATM/ANS systems and ATM/ANS constituents in addition to the managerial control over safety risks of the services and functions that they support.
- (9) Therefore, three different levels of requirements and detailed specifications should be established, namely: (i) certification by the Agency, the most stringent level; (ii) declaration by an approved organisation involved in the design or production of ATM/ANS equipment, the medium level; and (iii) statement of compliance by the ATM/ANS provider that integrates the ATM/ANS equipment into its functional system, as defined in Commission Implementing Regulation (EU) 2017/373⁴, or, upon ATM/ANS provider's request, by an approved organisation involved in the design or production of ATM/ANS equipment.
- (10) In accordance with Article 29(2), point (a), of Regulation (EU) 2021/696 of the European Parliament and of the Council⁵, the European Union Agency for the Space Programme (EUSPA) has been entrusted with managing the European Geostationary Navigation Overlay Service (EGNOS), including the exploitation of EGNOS that covers, amongst other actions, support to certification and standardisation efforts.
- (11) Under Regulation (EU) 2021/696 both EUSPA and the European Space Agency (ESA) are responsible for the design of the EGNOS system and its equipment. The Agency should oversee the declarations of design compliance of the equipment of EGNOS in accordance with specific arrangements to be concluded with EUSPA. Those arrangements are to address technical, administrative, and financial aspects such as a requirement to consult EUSPA as regards the development of detailed specifications; the oversight by EASA of the declarations of design compliance of the

⁴ Commission Implementing Regulation (EU) 2017/373 of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011 (OJ L 62, 8.3.2017, p. 1).

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, p. 69).

EGNOS system; and the exchange of data between both agencies regarding the relevant International Civil Aviation Organization (ICAO) Standards and Recommended Practises (SARPS) compliance. Those arrangements are to ensure a level of safety and interoperability equivalent to the requirements of this Regulation.

- (12) In certain remote territories, outside the ICAO European (EUR) region as defined in the European (EUR) Air Navigation Plan Volume I (Doc 7754) of ICAO, with low traffic volume and where that airspace borders only with airspace under the responsibility of a third-country ATM/ANS providers, the application of the attestation methods of certification and declaration of design compliance of ATM/ANS equipment may be challenging or even unfeasible, due to their specific safety and interoperability needs. In such cases, for ATM/ANS equipment that is used by ATM/ANS providers in remote areas outside of the ICAO EUR region, it is deemed appropriate to provide derogations from the certification or declaration requirements applicable to such ATM/ANS equipment. Instead, in order to provide for safe and interoperable provision of ATM/ANS, the ATM/ANS provider in that region needs to ensure that applicable specifications are being met by issuing a statement of compliance.
- (13) It is necessary to ensure a smooth transition to the new regulatory framework established by this Regulation and to ensure that a high and uniform level of civil aviation safety in the Union is maintained. It is therefore necessary to provide sufficient time for the design and manufacturing industry of the ATM/ANS systems and ATM/ANS constituents, and for the Agency and Member States' administrations to adapt to this new framework. It is appropriate that the ATM/ANS equipment that is in operation and that was attested under the previous framework is considered as if it had been issued with certificates or declarations issued under the new framework during a transition period, unless the Agency states that such equipment does not ensure the level of safety and interoperability required by Regulation (EU) 2018/1139.
- (14) During the transition period, as regards any new ATM/ANS system and ATM/ANS constituent put into operation, a statement of compliance, issued by the ATM/ANS provider that integrates it in its functional system, or, upon request, by the design and production organisation that designs and manufactures it, should be submitted to the competent authority of the referred ATM/ANS provider defined in Article 4(1) of in Commission Implementing Regulation (EU) 2017/373.
- (15) After the transition period the Agency should be solely responsible for certification and for receiving declarations concerning certain ATM/ANS equipment; it is therefore appropriate for the Agency to evaluate the compliance information submitted to national authorities under the previous framework, before such ATM/ANS equipment comes under the remit of the Agency. Therefore, national authorities should make this information available to the Agency. After the evaluation by the Agency, the ATM/ANS equipment should be deemed to have been issued with a certificate or declaration of compliance. The evaluation needs to be made public by decision of the Agency's executive director.
- (16) The measures provided for in this Regulation are based on Opinion No 01/2023, issued by the European Union Aviation Safety Agency in accordance with Article 75(2), points (b) and (c), and Article 76(1) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down common technical requirements and administrative procedures for the certification and declaration of design compliance of ATM/ANS systems and ATM/ANS constituents. This Regulation lays down the rules on:

- (a) identifying ATM/ANS systems and ATM/ANS constituents which are either subject to certification, declaration, or a statement of compliance;
- (b) issuing certificates for ATM/ANS systems and ATM/ANS constituents;
- (c) issuing declarations of design compliance of ATM/ANS systems and ATM/ANS constituents by organisations involved in the design or production of ATM/ANS systems and ATM/ANS constituents and which were approved in accordance with Commission Implementing Regulation (EU) .../...⁶ [*PO please insert the full title and reference - D090451/01 - C(2023)5202*] to have the privileges to issue such declarations of compliance;
- (d) issuing statements of compliance of ATM/ANS systems and ATM/ANS constituents by ATM/ANS providers certified in accordance with Commission Implementing Regulation (EU) 2017/373 or by organisations involved in the design or production thereof approved in accordance with Implementing Regulation (EU) .../... [*PO please insert the full title and reference - D090451/01 - C(2023)5202*];
- (e) issuing ATM/ANS equipment directives by the Agency.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (1) ‘ATM/ANS equipment’ means ATM/ANS constituents as defined by Article 3(6) of Regulation (EU) 2018/1139 and ATM/ANS systems as defined by Article 3(7) of that Regulation, excluding airborne constituents, which are subject to Commission Regulation (EU) No 748/2012⁷;
- (2) ‘ATM/ANS equipment directive’ means a document issued by the Agency which mandates actions to be performed by ATM/ANS providers on ATM/ANS equipment to address an unsafe and/or insecure condition that has been identified and restore the

⁶ **Commission Implementing Regulation (EU) 2023/... laying down technical requirements and administrative procedures for the approval of organisations involved in the design or production of air traffic management/air navigation services systems and constituents and amending Commission Implementing Regulation (EU) 2023/203**

⁷ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

performance and interoperability of that ATM/ANS equipment when evidence shows that the safety, security, performance or interoperability of that particular equipment may otherwise be compromised;

- (3) ‘European air traffic management network’ (EATMN) means the collection of systems, listed in point 3.1 of Annex VIII to Regulation (EU) 2018/1139, enabling air navigation services in the Union to be provided, including the interfaces at boundaries with third countries;
- (4) ‘functional system’ means a combination of procedures, human resources and equipment, including hardware and software, organised to perform a function within the context of ATM/ANS and other ATM network functions.

Article 3

Competent authority

1. The competent authority responsible for issuing certificates for ATM/ANS equipment in accordance with Article 4, for accepting declarations of design compliance of ATM/ANS equipment issued in accordance with Article 5, and for the oversight of certificate and declarations, shall be the Agency. For that purpose, the Agency shall comply with the requirements laid down in Annex I.
2. The competent authority responsible for the oversight of the statement of compliance issued by an ATM/ANS provider in accordance with Article 6 shall be the same competent authority as the authority responsible for the certification and oversight of that ATM/ANS provider.

Article 4

Certification of ATM/ANS equipment

1. The following ATM/ANS equipment shall be issued with a certificate as set out in Annex II:
 - (a) equipment supporting controller – pilot communications;
 - (b) equipment supporting air traffic control (ATC) services when enabling the separation of aircraft or the prevention of collisions.
2. The certificate referred to in paragraph 1 shall be issued by the Agency.
3. The certificate referred to in paragraph 1 shall be issued for an unlimited duration. It shall remain valid indefinitely except where:
 - (a) the certificate holder no longer complies with the requirements of this Regulation; or
 - (b) as regards ATM/ANS equipment, there is no valid organisation approval issued by the Agency in accordance with Implementing Regulation (EU) .../... [*PO please insert the full title and reference - D090451/01 - C(2023)5202*]; or
 - (c) the ATM/ANS equipment no longer complies with its certification basis in accordance with point ATM/ANS.EQMT.CERT.025 of Annex II; or
 - (d) the certificate has been surrendered by its holder or revoked by the Agency.

Upon surrender or revocation of the certificate, if issued in a paper format, it shall be returned to the Agency without delay.

4. By way of derogation from paragraph 1, ATM/ANS equipment that is solely being used in a limited part of airspace outside of the ICAO EUR region with low traffic volume, and where that part of the airspace borders only with airspace under the responsibility of a third country, shall not be required to be issued with a certificate. In such a case, the ATM/ANS equipment shall be issued with a statement of compliance in accordance with Article 6.

Article 5

Declaration of design compliance of the ATM/ANS equipment

1. The following ATM/ANS equipment when it generates, receives, and transmits data and/or signals in space for the purpose of ensuring safe and interoperable air navigation shall be issued with a declaration of design compliance as set out in Annex III:
 - (a) equipment supporting ground-to-ground communications;
 - (b) equipment supporting navigation or surveillance.
2. Declarations of design compliance shall be issued by organisations involved in the design or production of ATM/ANS equipment and which are approved in accordance with Implementing Regulation (EU) .../... [PO please insert the full title and reference - D090451/01 - C(2023)5202] .
3. Declarations of design compliance of the ATM/ANS equipment shall be issued for an unlimited duration. Declarations shall remain valid unless they have been deregistered in accordance with point DPO.AR.C.015(g)(6) of Annex I to Implementing Regulation (EU) .../... [PO please insert the full title and reference - D090451/01 - C(2023)5202] as a result of one of the following:
 - (a) the ATM/ANS equipment no longer complies with the detailed specifications which enabled the declaration to be issued;
 - (b) the issuer of the declaration no longer complies with the applicable requirements of Implementing Regulation (EU) .../... [PO please insert the full title and reference - D090451/01 - C(2023)5202] or its approval has been surrendered, suspended or revoked;
 - (c) the ATM/ANS equipment has proved to give rise to unacceptable risk or unacceptable performance in service;
 - (d) the organisation has withdrawn the declaration of design compliance.
4. By way of derogation from paragraph 1, ATM/ANS equipment that is solely being used in a limited part of airspace outside of the ICAO EUR region with low traffic volume, and where that part of the airspace borders only with airspace under the responsibility of a third country, shall not be required to be issued with a declaration of design compliance. In such a case, the ATM/ANS equipment shall be issued with a statement of compliance in accordance with Article 6.
5. As regards the ATM/ANS equipment of the European Geostationary Navigation Overlay Service (EGNOS) system, the declaration of design compliance as set out in Annex III to this Regulation shall be issued by the European Union Agency for the Space Programme (EUSPA) established by Regulation (EU) 2021/696, which shall be considered as an organisation involved in the design or production of EGNOS equipment.

6. Points ATM/ANS.EQMT.DEC.005 and ATM/ANS.EQMT.DEC.045 of Annex III shall not be applicable to EUSPA. EUSPA shall ensure that the Agency is given access to evidence from the different entities involved in the design and production of the ATM/ANS equipment of the EGNOS system, in order to determine continued compliance with the applicable technical specifications against which the ATM/ANS equipment declaration was made in accordance with Annex III.

Article 6

Statement of compliance

1. The following ATM/ANS equipment shall be issued with a statement of compliance:
 - (a) equipment that is neither subject to certification in accordance with Article 4 nor to a declaration of compliance in accordance with Article 5; and
 - (b) it supports air traffic services, communication, navigation or surveillance services, airspace management, air traffic flow management, aeronautical information services or meteorological services.

The statement of compliance shall confirm that the ATM/ANS equipment complies with the detailed specifications issued by the Agency in accordance with Article 76(3) of Regulation (EU) 2018/1139.

2. A statement of compliance for ATM/ANS equipment shall be issued by the ATM/ANS provider that integrates such ATM/ANS equipment in its functional system or, upon request of the ATM/ANS provider, by an organisation involved in the design or production of such ATM/ANS equipment approved in accordance with Implementing Regulation (EU) .../... [*PO please insert the full title and reference - D090451/01 - C(2023)5202*].
3. A statement of compliance for ATM/ANS equipment shall be issued for an unlimited duration. It shall remain valid unless any of the following applies:
 - (a) the ATM/ANS equipment no longer complies with the essential requirements set out in Annex VIII and, if applicable, in Annex VII to Regulation (EU) 2018/1139;
 - (b) the ATM/ANS provider no longer complies with the applicable requirements of Implementing Regulation (EU) 2017/373 or it has surrendered the certificate issued in accordance with Article 6 of Implementing Regulation (EU) 2017/373, or the certificate has been suspended or revoked;
 - (c) the ATM/ANS provider has withdrawn the statement of compliance or enforcement measures have been taken in accordance with point ATM/ANS.AR.C.050(e) of Annex II to Implementing Regulation (EU) 2017/373.

Article 7

Transitional provisions

1. The following transitional provisions shall apply to ATM/ANS equipment holding EC declarations issued in accordance with Articles 5 or 6 of Regulation (EC) No

552/2004 of the European Parliament and of the Council⁸ and that has been put into operation before the date of entry into force of this Regulation:

- (a) ATM/ANS equipment which falls within the category of ATM/ANS equipment that requires certification in accordance with Article 4 shall be deemed to have been issued with a certificate in accordance with Article 4 unless the Agency determines, following the evaluation referred to in paragraph 2, that such ATM/ANS equipment does not ensure a level of safety, security, performance and interoperability equivalent to that required by Regulation (EU) 2018/1139 and this Regulation;
- (b) ATM/ANS equipment which falls within the category of ATM/ANS equipment that is required to be declared in accordance with Article 5 shall be deemed to have been issued with a declaration of design compliance in accordance with Article 5 unless the Agency determines, following the evaluation referred to in paragraph 2, that such ATM/ANS equipment does not ensure a level of safety, security, performance and interoperability equivalent to that required by Regulation (EU) 2018/1139 and this Regulation;
- (c) as regards ATM/ANS equipment which is subject to a statement of compliance in accordance with Article 6, the EC declarations of verification of systems that have been issued or recognised in accordance with Article 6 of Regulation (EC) No 552/2004 shall continue to be valid for an unlimited duration and shall be deemed to have a statement of compliance pursuant to Article 6.

2. The Agency shall evaluate the ATM/ANS equipment referred to in paragraph 1, points (a) and (b), within 5 years from the date of entry into force of this Regulation and shall publish the results of that evaluation. For that purpose, the competent authorities responsible for the certification and oversight of the ATM/ANS providers referred to in Article 4(1) of Implementing Regulation (EU) 2017/373 shall provide the Agency with the relevant information to facilitate this evaluation. The objective of that evaluation shall be to determine whether the relevant ATM/ANS equipment ensures a level of safety, security, performance and interoperability equivalent to that required by Regulation (EU) 2018/1139 and this Regulation. The result of the evaluation shall be published and any measure to change the ATM/ANS equipment identified by the evaluation shall be applied after 5 years from the date of entry into force of this Regulation, regardless of the actual date when the evaluation takes place, unless the evaluation reveals a deficiency that may have a detrimental effect on safety. In the case a deficiency that may have a detrimental effect is detected, any measure to change the ATM/ANS equipment revealed by the evaluation shall be applied immediately. After 5 years from the date of entry into force of this Regulation, the ATM/ANS equipment referred to in paragraph 1, points (a) to (b), shall be deemed to comply with the requirements of this Regulation.
3. ATM/ANS equipment that is subject to certification in accordance with Article 4 or a declaration in accordance with Article 5 may be put into operation from the date of entry into force of this Regulation until 12 September 2028 on the basis of a statement of compliance made in accordance with Article 6. As from 13 September 2028, the following provisions shall apply to such ATM/ANS equipment:

⁸ 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 (OJ L 96, 31.3.2004, p. 26).

- (a) ATM/ANS equipment which falls within the category of ATM/ANS equipment that requires certification in accordance with Article 4 and for which a statement of compliance was issued by the ATM/ANS provider shall be deemed to have been issued with a certificate in accordance with Article 4 unless the Agency determines, following the evaluation referred to in paragraph 4, that such ATM/ANS equipment does not ensure a level of safety, security, performance and interoperability equivalent to that required by Regulation (EU) 2018/1139 and this Regulation;
 - (b) ATM/ANS equipment which falls within the category of ATM/ANS equipment that requires a declaration of design compliance in accordance with Article 5 and for which a statement of compliance was issued by the ATM/ANS provider shall be deemed to have been issued with a declaration of design compliance in accordance with Article 5 unless the Agency determines, following the evaluation referred to in paragraph 4 that such ATM/ANS equipment does not ensure a level of safety, security, performance and interoperability equivalent to that required by Regulation (EU) 2018/1139 and this Regulation.
4. The Agency shall evaluate the ATM/ANS equipment referred to in paragraph 3 not later than 12 September 2030. For that purpose, the competent authorities responsible for the certification and oversight of the ATM/ANS providers referred to in Article 4(1) of Implementing Regulation (EU) 2017/373 shall provide the Agency with the relevant information to facilitate this evaluation. The objective of that evaluation shall be to determine whether the particular ATM/ANS equipment meets a level of safety, security, performance and interoperability equivalent to that required by Regulation (EU) 2018/1139 and this Regulation.

Article 8

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, 14.7.2023

For the Commission
The President
Ursula VON DER LEYEN