



## **8.33 IMPLEMENTING SUPPORT GROUP (8.33 ISG)**

“Frequently Asked Questions and Answers”

## DOCUMENT CONTROL

### DOCUMENT CHANGE RECORD

The following table records the complete history of the successive editions of the present document.

<b>Edition Number</b>	<b>Edition Date</b>	<b>Reason for Change</b>	<b>Pages Affected</b>
0.12	16-01-15	Working Draft.	All
0.13	26-02-15	Addition of several Q&A from the EC 8.33VCS workshop	All
1.0	02-03-15	Final draft	All
1.1	28-04-15	Updated version 1.1 following comments received to specific question's clarification	7 (question 8); 9 (question 14); 11 (question 21); several editorials

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## 1. INTRODUCTION

During the first 8.33 ISG Meeting on the 4th of February 2014 the Members of the group raised a number of questions and requested clarification on a number of provisions. Requests for clarifications on the Regulation were also introduced by email either to EUROCONTROL or to the European Commission. Finally additional questions on the provisions of the Regulation were also addressed during the VCS Workshop organised by the Commission on 27 January 2015. A summary of the discussions is available at: <http://www.eurocontrol.int/events/european-commission-vcs-regulation-workshop>

The purpose of this document is to record clarifications to the requested clarifications on Regulation (EC) No 1079/2012.

This document aims to provide clarifications to general questions on specific provisions of the Regulation which were and still are frequently asked by Airspace Users, Air Navigation Service Providers, States, Airports and others. The proposed clarifications have been prepared in coordination between the European Commission and EUROCONTROL.

***Disclaimer:*** *the clarification of the Union legislation provided in present document does not bind the Commission and is without prejudice to the interpretation to be provided eventually by the European Court of Justice*



## 2. FREQUENTLY ASKED QUESTIONS

### **Question 1 (General):**

*Do 8.33 kHz channel spacing capable radios need to comply with the R&TTE Directive (2014/53/EU)?*

#### **Answer:**

As described in Annex I of the R&TTE Directive, only airborne radios that fall within the scope of Article 3 of Regulation (EC) No 216/2008 are exempted. All other radios will need to comply with R&TTE directive. Radio manufactures can apply ETSI EN 300 676 to demonstrate their compliance with article 3.2 of the R&TTE directive.

### **Question 2 (General):**

*Who is responsible in a State to decide who will be responsible for reporting to the EC on the implementation of the regulation, exemptions and other aspects?*

#### **Answer:**

It is not up to the European Commission (neither EUROCONTROL) to decide who represents the State. A National Representative to the Single Sky Committee might be identified as a point of contact.

### **Question 3 (General)**

*Is EASA aware and/or maintaining the status of 8.33 kHz equipage for third country operators (TCO's), and notably from the Middle East.*

#### **Answer:**

EASA confirmed that in their database, they can monitor whether an aircraft of a TCO has communication equipment supporting 8.33 kHz channel spacing. An operator applying for an EASA TCO Authorisation is required to declare that information and has the obligation to keep this declaration up to date.

### **Question 4 (Whereas):**

*It seems that there are different understandings of item (15) of the EU Regulation 1079/2012.*

*Does it mean that according to Regulation item, frequency 122.100 MHz should be installed at all airports which provide TWR service for State a/c not equipped with 8.33 radios? It will mean that we should add this frequency to all VCCS, and necessary radio sites at all airports for handling of State a/c, to accommodate State a/c on the same frequency in all NATO States. What is the real purpose of this frequency?*

#### **Answer:**

The Regulation recitals (i.e. whereas statements) are not regulatory requirements. The use of 122.100 MHz is defined in the NATO Guide to Spectrum Management (ACP 190) in Military Operations plus the applicable national civil-military agreements.

**Question 5 (Article 1):**

*Is it correct, that Regulation No 1079/2012 does not apply to air-air voice communications since Article 1 states that this Regulation lays down requirements for the coordinated introduction of air-ground voice communications based on 8.33 kHz channel spacing?*

Answer:

If air-to-air communications are performed on VHF band (Article 2.1), then the radios used should have the 8.33 capability.

**Question 6 (Article 2):**

*Can you please confirm if it's correct that the VCS 2 regulation is applicable to all frequencies within the VHF band, i.e. including the frequencies within that band used for approach control, aerodrome control and other aerodrome services?*

Answer:

Yes, as stated in Articles 2.1, 2.2 and 2.3.

**Question 7 (Article 2):**

*Radios not migrating to 8.33 kHz is generally understood as: CLIMAX, Military, SAR, Data-link, but the rule is not specifying this, could it be interpreted that it also applies to Broadcast and all other only-ground (no Aircraft involved) transmissions?*

Answer:

Article 2.4 is specifying frequency assignments to which conversion requirements shall not apply and that will remain in 25 kHz channel spacing, namely that will remain in 25 kHz channel spacing on the following frequencies:

- the emergency frequency (121,5 MHz);
- the auxiliary frequency for search and rescue operations (123,1 MHz);
- the VHF digital link (VDL) frequencies (136,725 MHz, 136,775 MHz, 136,825 MHz, 136,875 MHz, 136,925 MHz and 136,975 MHz);
- the aircraft communications addressing and reporting system (ACARS) frequencies (131,525 MHz, 131,725 MHz and 131,825 MHz);
- where offset carrier operation (CLIMAX) within a 25 kHz channel spacing is utilised.

Broadcast and all other only-ground transmissions shall operate in the 8.33 kHz channel spacing capability as well, as they are not specified in the regulation as exempted.

**Question 8 (Article 2):**

*Please provide clarification of the Article 2 Provision 5 "Radios intended to operate exclusively in one or more frequency assignments that will remain in 25 kHz channel spacing shall not be required to have the 8.33 kHz channel spacing capability."*

Answer:

This requirement exempts Emergency Location Transmitters (ELT), Data Link Radios, and other radios in special cases when it can be proven that they will never be used in 8.33 kHz frequency assignment airspace, from 8.33 kHz channel spacing capability.

**Question 9 (Article 2):**

*Article 2.5 describes exactly how most ground use radios are licensed in Europe. Does this mean that operators with a ground use license for a single 25 kHz channel are still permitted and that we may continue to supply radios for them?*

Answer:

Licenses to operate/use a radio/radio frequency are normally granted for a fixed limited time period. In 2018 all licenses will be changed to 8.33 kHz, except those of exempted channels.

You can supply radios without the 8.33 kHz capability exclusively to repair operational equipment operating in 25 kHz spacing environment only. All radio upgrades should have the 8.33 kHz capability.

**Question 10 (Article 4):**

*Could you define what "radio equipage requirement means"?*

Answer:

This means an obligation at local, national or EU level to equip the aircraft with a VHF radio.

**Question 11 (Article 4):**

*Is a distinction made between commercial and non-commercial IFR-flights concerning the number of VHF radios?*

Answer:

There is no difference between commercial and non-commercial IFR flights in Regulation No1079/2012.

**Question 12 (Article 4):**

*Article 4.3 says: "and have a radio equipage requirement, are fitted with radios having the 8.33 kHz channel spacing capability." In aviation rules radio is required for commercial aviation and IFR/night flying.*

*For VFR flying (and especially in uncontrolled airspace (G) in daytime) there is no requirement for any kind of radio. This paragraph looks like that if new VFR/non-commercial aircraft is registered and taken into use after 17 November 2013, and it is operated outside areas requiring 8.33 radio, it can have older radio installed (made and sold before 17 November 2013).*

Answer:

The obligation put forward by Regulation Article 4 paragraph 3 is indeed only applicable if there is a radio equipage requirement for the aircraft in question. Actually this means that if the aircraft will always fly in airspace where there is no radio equipage requirement (e.g. imposed locally, nationally, or at EU level) (i.e. for VFR flying in uncontrolled airspace as you mention it), then there is no need to equip, and if there is already a 25 kHz radio equipment aboard, it does not have to be upgraded.

**Question 13 (Article 4):**

*Does Article 4 Provision 6 mean that all radios placed on the market as of 2013 require 8.33 kHz channel spacing capability so that all radios will have the capability by 31/12/2017?*

Answer:

Yes, it means that all radios which are placed on the European market as of 2013 have to be 8.33 kHz channel spacing capable as well as 25 kHz.

**Question 14 (Article 4):**

*As manufacturers, can we supply 25 kHz only radios to the European market after 17 November 2013 through our authorized representatives?*

Answer:

No new radios can be placed on the market after 17 November 2013 without the 8.33 kHz capability; however, radios already on the market can still be supplied for repairs of existing installations (e.g. for radios that are used exclusively for frequency assignments that will remain in 25 kHz channel spacing such as SAR, CLIMAX, etc.), but not for new installations and upgrades requiring 8.33 kHz capable radios.

**Question 15 (Article 4):**

*An airport group uses 20+ handheld radios. If one of them is broken will it be possible to replace it in the future?*

Answer:

Yes. It can be replaced by exactly the same model until the frequencies it is intended to operate are converted to 8.33 kHz. If it is a different model, the new model should have the 8.33 capability (Article 4.4).

**Question 16 (Article 4):**

*Member States shall ensure that by 31 December 2017 at the latest all radios have the 8.33 kHz channel spacing capability with the exception of ground radios operated by air navigation service providers. Can you please provide some clarification on this article (Article 4.5)?*

Answer:

The justification for this exception is that the main requirement for ANSPs is the conversion of channels to 8.33 kHz, not the radio capabilities. In order to make the conversions by end of 2018, ANSPs radios will require the 8.33 kHz capability, but this is not required for the 31 December 2017.

There are two different types of requirements in the rule: requirements on conversions of assignments to 8.33 kHz and requirements on radio capability.

The most important are the ones on conversions and they are applicable to ANSPs, they have to do all the conversions by end 2018.

So everybody else will have to have the radios capable by 31.12.2017, allowing the ANSP to start testing after that date, make the conversions and the States to publish then in the COM 2 Table by 31 December 2018.

**Question 17 (Article 5):**

*How many 8.33 capable radios are required on-board of an airplane?*

Answer:

In Regulation 1079/2012 there is no reference to the amount of radios needed.

The Regulation requires in its Article 5, that the aircraft radio equipment must have 8.33 kHz channel capability.

Regulation 923/2012 which concerns the Standardised European Rules of Air (SERA) considers equipage requirements to be airspace-rule based.

Regulation 965/2012 concerning Commercial Air Transport (CAT) determines the equipage requirements when engaged in CAT IFR operations in CAT.IDE.A.345, subparagraph (b). For non-CAT operations such as most General Aviation flights, the non-commercial operations rules found in Regulation 800/2013 are more appropriate (EASA, Certification Specifications and Acceptable Means of Compliance for Airborne Communications, Navigation and Surveillance CS-ACNS, 17 December 2013)

Furthermore it is important to note that as explained above, it is still in a transitional period. The SERA rule must only be applied as of 4 December 2014 and for the non-commercial Air-Ops requirements in Regulation 800/2013, the Member States may delay application until August 2016. Until that date various national rules may cover their scope.

**Question 18 (Article 5):**

*Sample situation: A glider flown in class G airspace and from uncontrolled airfields. There is no requirement for radio in airworthiness requirements. There is no requirement for radio in operational requirements. Also article 5 looks that airspace without radio requirement, radios with other spacing than 8.33 can be used. Can a 25 kHz radio (made and sold to end user before 17 Nov 2013) be installed?*

Answer:

No. If a new radio is to be installed it should have the 8.33 kHz capability.

**Question 19 (Article 5):**

*Please provide clarification of Article 5 Provision 4 "Without prejudice to Article 2(5), from 1 January 2018 an operator shall not operate an aircraft in airspace where carriage of radio is required unless the aircraft radio equipment has the 8.33 kHz channel spacing capability."*

Answer:

It means that from 1 January 2018 all flights operating as GAT, within the airspace of the ICAO EUR region where Member States are responsible for the provision of ATS in accordance with the Regulation 1079/2012 shall carry 8.33 kHz capable radios on board.

**Question 20 (Article 14):**

*What means having limited impact on the network and how to apply to the derogations in the Article 14.2?*

Answer:

The limited impact is not only referring to the Radio Frequency Function, it is also including other NM services, also the capacity, safety and economic impact aspects of the impact on the network

This is the reason why Article 14.4 mentions that the Commission may review an exemption granted by a MS, "after consultation with the Network Manager".

When it comes to the requirements of the regulation expressed in articles 4(5) 5(4) and 6(10), article 14 had foreseen exemption conditions to be applied by the Member States themselves. However, in doing so, the Member States have to send to the Commission detailed justification material demonstrating that there is no impact on the network. Then

the Commission has 6 months to analyse after a potential consultation with the NM and take a position.

**Question 21 (Article 14):**

*Article 14 allowing States to grant some derogation, if this has no impact on the network. But it does not protect from the provision of Article 5.2 that, from January 1st, 2014, an aircraft under IFR may not enter an airspace class A, B or C if not equipped with a 8.33 radio, even if the ground radio remains 25 kHz.*

*Would it be allowed if an AIC will provide derogation that equipment of IFR aircraft in class C remaining 25 kHz can be used by aircraft in 25 kHz airspace?*

**Answer:**

Article 14 on exemptions cannot be invoked with respect to the provisions of Article 5.2. Considering the timeline and equipage obligations of the Regulation, it is correct to say that the Regulation originally envisaged and actually mandated that aircraft would have to be equipped with 8.33 kHz (as of 1 January 2014) before all the communication channels would have been converted. The Regulation does legally not provide for such derogation for equipment of IFR aircraft in class C airspace remaining in 25 kHz channel assignment at least until the moment that the conversions to 8.33 kHz in the class C are applied. Considering that in the scope of the SES reporting obligations for Member States specific questions will be asked on the implementation and measures taken by the Member States regarding their various obligations from the Interoperability Regulations (including this one), it is advisable for the concerned Member States to document and justify any decision or deviation from the obligations of the Regulation they would like to apply.

**Question 22 (Article 14):**

*The operator(s) are going to ferry/fly aircraft through European airspace. Can you please provide information on exemptions/ or to grant an exemption on the specific FL.*

**Answer:**

As per Article 6 of the Regulation, all airspace above FL195 in Europe must have been converted to the 8.33 kHz radio spacing, with the exception the frequency assignments that stay in 25 kHz as a result of a safety requirement and of 25 kHz frequency assignments used to accommodate State aircraft as foreseen in Article 6 (10).. More over according to Article 5.1 of the Regulation No 1079/2012 "an operator shall not operate an aircraft above FL 195 unless the aircraft radio equipment has the 8.33 kHz channel spacing capability."

Therefore, considering the possible exemptions provided by some States in accordance with Article 14, it is recommended, for operators planning to fly through the airspace of those States, to contact the responsible authorities (CAAs) of those States and to check the relevant published AICs of those states.

**Question 23 (Article 14):**

*Some helicopters are not at the moment equipped with 8.33 kHz spacing VHF transceivers. Can we ask the national authorities for an exemption?*

**Answer:**

Regulation 1079/2012 allows for exemptions in a few special cases. Your national authorities can decide to propose those exemptions when there is a limited impact on the network.

**Question 24 (Article 14)**

*What is the nature and duration of derogations and exemptions? Are those to be considered temporary only or permanent?*

Answer:

The text of the regulation is different for Art 14.1, which speaks specifically about temporary derogations, and for Art 14.2 with speaks about exemptions for cases having limited impact on the network. Because of the evolution expected in the network, a case-by-case analysis should be made to the possible derogation or exemption requests.

**Question 25 (Article 14)**

*The Regulation does not specifically include a deadline for requesting exemptions.*

Answer:

According to the Art 14.3 process, Member States have to provide the Commission with the need justification at least one year before the relevant application dates (i.e. 1 December 2016 for Art 4.5, 1 January 2017 for Art 5.4 and 31 December 2017 for Art 6.10)

**Question 26 (Annex 3):**

*Is Annex III Provisions 9b, 9c on the local assessment a purely local issue, or if it should involve EASA, EC or Network Manager?*

Answer:

Yes, it is a local issue. The Regulation is referring to the local safety assessment which shall be done by each Member State implementation 8.33 kHz. For more information please see Justification Material for the Draft Implementing Rule on the 2<sup>nd</sup> Phase of the Air-Ground Voice Channel Spacing 6.3 Safety Impact Assessment.

**Question 27 (Regulation No 657/2013):**

*How to calculate 25% of ACC frequencies according to Regulation No 657/2013? Shall CLIMAX, Military, SAR, Data-link be included in the total number of ACC frequencies for calculation of 25%?*

Answer:

It shall be calculated as 25% from the total number of ACC frequencies assigned to the State in COM2 Table, excluding CLIMAX, Military, SAR, Data-link and other exempted frequencies which shall not be included into 100%. 100% contains only ACC frequencies which can be potentially converted from 25 kHz into 8.33 kHz. Only frequencies assigned as ACC in COM2 are included into calculation, frequencies stated as VOLMET and other shall not be included to the calculation of 25% target.

The number of conversions= 25% \*(COM2 ACC 25kHz freq. assignments – CLIMAX – Exempted due to safety reasons – Accommodate State Aircraft).

For example, if a State owns 22 ACC frequencies having a 25kHz channel spacing and 2 of them are CLIMAX, the State should convert 5 frequencies. The 25% conversion target would be applicable to the amount of 25 kHz assignments, not only to ACC assignments.

$25\% * (22-2-0-0) = 5$

The 25% conversion target can be fulfilled by any type of non-OPC assignment (not only ACCs) in the 117,975-137 MHz band.

For example,

1<sup>st</sup> frequency assignment 118.000 (APP) convert to 118.005

2<sup>nd</sup> 135.550 (VOLMET) convert to 134.880

3<sup>rd</sup> 126.750 (ACC) convert to 126.755

4<sup>th</sup> 119.150 (TWR) convert to 118.005

5<sup>th</sup> 130.050 (ATIS) convert to 130.055

The conversions shall be performed in the COM2 table by the end of 2014. Frequency 8.33 kHz conversion means that the channel assigned on 8.33 kHz only (i.e. the former 25 kHz assignment disappeared from SAFIRE) according to the Regulation 1079/2012 Article 3.5.

### 3. List of References

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