EUROPE AIR SPORTS

Proposal for Amendments

16.1.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft

Article 2: Definitions

(23) 'unmanned sailplane' means an unmanned aircraft that is supported in flight by the dynamic reaction of the air against its fixed lifting surfaces, the free flight of which does not depend on a~~n engine~~propulsion system. It may be equipped with ~~an engine~~a propulsion system to assist with the launch or to enable a safe landing~~be used in case of emergency~~;

Explanation: model aircraft sailplanes are often fitted with so-called self-launch or sustainer systems. These are used to assist with the launch of the sailplane (either self-launching or when hand-launching the aircraft) as well as in situations where lift is insufficient to return the sailplane to a height that is sufficient to enable its safe return and landing. These systems, typically with a short runtime and mostly electric (hence "propulsion system" rather than "engine", which is more commonly associated with combustion engines), significantly increase the operational safety of model sailplanes. Using a short burst of power to return a sailplane to sufficient height is not an "emergency", but an action taken well before an actual emergency can occur. The definition of 'unmanned sailplane' should be brought in line with the common use of these systems and how these systems are contributing to the safe operation of unmanned sailplanes.

Article 3: Categories of UAS operations

UAS operations shall be performed in the 'open', 'specific' or 'certified' category or 'in the framework of a model aircraft club or association', ~~-~~defined respectively in Articles 4, 5, ~~and~~ 6 and 16, subject to the following conditions:

(a) UAS operations in the 'open' category shall not be subject to any prior operational authorisation, nor to an operational declaration by the UAS operator before the operation takes place;

(b) UAS operations in the 'specific' category shall require an operational authorisation issued by the competent authority pursuant to Article 12 ~~or an authorisation received in accordance with Article 16,~~ or, under circumstances defined in Article 5(5), a declaration to be made by a UAS operator;

(c) UAS operations in the 'certified' category shall require the certification of the UAS pursuant to Delegated Regulation (EU) 2019/945 and the certification of the operator and, where applicable, the licensing of the remote pilot.

(d) UAS operations 'in the framework of a model aircraft club or association' shall require an authorisation issued in accordance with Article 16.

Explanation: the inclusion of operations 'in the framework of a model aircraft club or association' in the definition of 'specific category' has led to confusion on whether specific category requirements are to be applied to the granting of and operations under Article 16 Authorisations. A number of Member State authorities have introduced specific category requirements, including risk assessments, in the procedure for granting or operations under Article 16 Authorisations, with direct reference to these authorisations being part of the specific category. Defining these operations as a separate category under Article 3 clarifies the requirements for this category. It will facilitate implementation of the Regulation and reduce excessive regulatory burdens for clubs and associations.

Article 5: 'Specific' category of UAS operations

6. An operational authorisation or a declaration shall not be required for~~:~~

~~(a)~~ UAS operators holding an LUC with appropriate privileges in accordance with point UAS.LUC.060 of the Annex~~;~~

~~(b) operations conducted in the framework of model aircraft clubs and associations that have received an authorisation in accordance with Article 16~~.

Explanation: consequential amendment in line with the amendments proposed for Article 3.

Article 7: Rules and procedures for the operation of UAS

1. UAS operations in the 'open' category shall comply with the operational limitations set out in Part A of the Annex.

2. UAS operations in the 'specific' category shall comply with the operational limitations set out in the operational authorisation as referred to in Article 12 ~~or the authorisation as referred to in Article 16,~~ or in a standard scenario defined in Appendix 1 to the Annex as declared by the UAS operator.

This paragraph shall not apply where the UAS operator holds an LUC with appropriate privileges.

UAS operations in the 'specific' category shall be subject to the applicable operational requirements laid down in Commission Implementing Regulation (EU) No 923/2012 ([2]).

3. UAS operations in the 'certified' category shall be subject to the applicable operational requirements laid down in Implementing Regulation (EU) No 923/2012 and Commission Regulations (EU) No 965/2012 ([3]) and (EU) No 1332/2011 ([4]).

4. UAS operations 'in the framework of a model aircraft club or association' shall comply with the operational requirements set out in the authorisation as referred to in Article 16.

Explanation: consequential amendment in line with the amendments proposed for Article 3.

Article 8 Rules and procedures for the competency of remote pilots

[…]

3. Remote pilots operating in the framework of model aircraft clubs or associations shall comply with ~~the~~ any minimum competency requirements defined in the authorisation granted in accordance with Article 16.

Explanation: model aircraft clubs and associations have traditionally invested in the skills and competency of their members. The excellent safety record of those clubs and associations shows the effectiveness of this approach. A number of Member States have accordingly opted to leave any requirements or tests for the competency of their members with the clubs and associations and chose not to define competency requirements in the Article 16 Authorisation. This amendment clarifies that it's up to the competent authorities granting the Article 16 authorisation whether to set any competence requirements in the authorisation itself or leave this entirely with the clubs and associations.

Article 9: Minimum age for remote pilots

[…]

5. Member States may define a ~~different~~ minimum age for remote pilots operating in the framework of model aircraft clubs or associations in the authorisation issued in accordance with Article 16.

Explanation: model aircraft clubs and associations have a long history of engaging youth in the fascination of aviation, starting from an early age. The age at which young pilots can operate their aircraft without supervision differs between pilots and is usually determined on the basis of individual assessment by their trainers and the rules of the club or association. Practice clearly shows that unaccompanied young pilots do not pose an additional risk – in fact young pilots are often among the most competent and skilled pilots. Moreover, an arbitrary minimum age has proven to be an important and unnecessary new barrier to new young pilots entering the sport and, importantly, practicing their skills. This is also to the detriment of Europe's competitiveness in the aviation industry. The current text can be read to require a minimum age, which has led to the bizarre situation that Member States wanting to avoid setting a minimum age have set one at a level where this has no practical effect. The proposed amendment clarifies that setting a minimum age is not required, in addition to leaving the setting of any minimum age to the discretion of the Member States, thus improving the quality of national legislation.

Article 14: Registration of UAS operators and certified UAS

[…]

5. UAS operators shall register themselves:

(a) when operating within the 'open' category or 'in the framework of a model aircraft club or association' any of the following unmanned aircraft:

i. with a MTOM of 250 g or more, or, which in the case of an impact can transfer to a human kinetic energy above 80 Joules;

ii. that is equipped with a sensor able to capture personal data, unless it complies with Directive 2009/48/EC.

(b) when operating within the 'specific' category an unmanned aircraft of any mass.

Explanation: consequential amendment in line with the amendments proposed for Article 3.

Article 16: UAS operations in the framework of model aircraft clubs and associations

[…]

2. The authorisation referred to in paragraph 1 shall be issued in accordance with any of the following:

(a) relevant national rules;

(b) established procedures, organisational structure and management system of the model aircraft club or association, ensuring that:

i. remote pilots operating in the framework of model aircraft clubs or associations are informed of the conditions and limitations defined in the authorisation issued by the competent authority;

ii. remote pilots operating in the framework of model aircraft clubs or associations are assisted in achieving the minimum competency required to operate the UAS safely and in accordance with the conditions and limitations defined in the authorisation;

iii. the model aircraft club or association takes appropriate and proportionate action when informed that a remote pilot operating in the framework of model aircraft clubs or associations does not comply with the conditions and limitations defined in the authorisation, and, if necessary, inform the competent authority;

iv. the model aircraft club or association provides, upon request from the competent authority, documentation required and in proportion to ~~for~~ risk-based oversight and monitoring purposes.

Explanation: this amendment focuses the prescribed requirements under 2(b) on those necessary to enable the authority to match those requirements with the risks of these operations and the resources available to clubs and associations as well as the competent authority. A number of competent authorities would have preferred to issue the authorisation on the basis of (b) but were prevented from doing so by the prescriptive nature of this option exceeding these resources and the risks of these operations. A number of associations have also been faced with information and oversight requirements that far exceed the risks posed by the sport.

ANNEX: UAS OPERATIONS IN THE 'OPEN' AND 'SPECIFIC' CATEGORIES

PART A

UAS OPERATIONS IN THE 'OPEN' CATEGORY

UAS.OPEN.010 General provisions

[…]

(4) By way of derogation from point (2), unmanned sailplanes with a MTOM, including payload, of less than ~~10~~ 12 kg, may be flown at a distance in excess of 120 metres from the closest point of the surface of the earth, provided that the unmanned sailplane is not flown at a height greater than 120 metres above the remote pilot at any time.

Explanation: allowing sailplanes to fly at a maximum height of 120 metres above pilot has proven to be important for supporting the long-standing tradition of slope soaring in mountainous and alpine areas, in turn supporting tourism infrastructure such as hotels, restaurants and transport options (cable cars, etc.). A large share of these slope soaring operations continues to take place in the open category. Without this provision, multiple hotels would not have survived, and mountain tourism infrastructure would have been economically affected.

In practice, the 10kg limit has proven arbitrary and too restrictive. There is no indication of an increase in risk of the operation of sailplanes heavier than 10kg, nor are there reports of serious incidents with heavier sailplanes. This is also clear from the practice in several EASA countries that have more generous weight and height requirements for slope soaring. The limit should be increased, for instance to 12kg, thus better aligning this paragraph with current practice and helping sustain the economic viability of mountain tourism infrastructure.