

New EU regulation on drone operations set to take off in December 2020



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Aviation, European Union

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UAS Regulation

The EU unmanned aircraft system (UAS) industry will face a new challenge as of 31 December 2020 when most of the EU Implementing Regulation 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft (UAS Regulation) will enter into force. The new UAS Regulation will replace most of the existing domestic provisions on UAS operations in EU member states. Although its effective date was originally scheduled for 1 July 2020, the European Commission has postponed the regulation's application until the end of 2020 due to the COVID-19 outbreak from which no one has emerged completely unscathed. Nevertheless, public authorities, UAS operators and pilots will have six months of extra time to adapt before the regulation enters into force at the end 2020. The first consequence of this milestone will be the homogenisation of UAS-related legislation across all EU member states, thus reducing the variety of operational requirements, obligations and restrictions between countries and harmonising the different legal frameworks both for leisure and commercial drone (ie, remotely piloted aircraft system and completely autonomous UAS) flights.

With the partial replacement of the domestic aeronautical laws governing UAS operations across the European Union, both EU and domestic legal frameworks will need to coexist for a short period. In some cases, this will entail a high number of concerns when assessing if a specific flight operation is legal. In the short term, UAS operators will need to adapt their organisations to the new risk-based approach where a specific operational risk assessment will be the main tool to ensure safe flying. In the medium term, the new UAS Regulation will provide a level playing field on these matters throughout most of the European Union.

Aerial categories

Another key achievement will be the implementation of the following aerial categories, which were announced during the development of the regulation.

Open category

Defined as the category with less operational risk, the open category will release UAS operators from the requirement to have authorisation or make a prior operational declaration of compliance to carry out operations that fall within the scope of this category. In addition, the new UAS Regulation removes the burden from operators of having to comply with most of the technical aspects of their aircraft; this burden now falls on UAS manufacturers and distributors.

Specific category

This category will apply to UAS operations where flights entail a level of risk higher than the open category. A risk assessment will be key for each operation. In these scenarios, UAS operators will need to apply to the aviation authorities for authorisation, obtain a specific light UAS operator certificate that grants the operator certain privileges or make an operational declaration if the flight is considered within the range of standard scenario.

Certified category

This category is reserved for operations with certified UAS and flights carried out which due to the risk involved cannot be included in either of the previous categories. Drones whose design, production and maintenance must be certified will fall into this category. For example, this would apply to aircraft with a dimension of more than three metres or designed to fly over people or for the transportation of people.

Comment

All UAS operators, manufacturers, pilots and EU aviation authorities must take action to adapt before the end of 2020 and guarantee the successful implementation of the UAS Regulation. While different interpretations of the regulation can be expected initially, industry players should not lose sight of the aim to find the right balance between fostering technological innovation in the European Union and keeping the highest safety and security standards.

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