



Drones Over Europe: A Regulatory Overview

IN SHORT

The Situation: Interest in drone technology continues to grow across Europe.

The Result: European nations are responding with regulations designed to encourage continued innovation while encouraging responsible drone use.

Looking Ahead: Drone users should remain aware of possible further regulatory changes in the future.

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As the market for civil unmanned aircraft systems—also called "drones"—expands, several European countries, including France, Germany, Italy, and the United Kingdom, have already adopted a regulatory framework. An overview of current regulations follows.

France: A Pioneer in Drone Regulation

The French Transport Code defines drones as "any aircraft capable of rising or circulating in the air" (Article L. 6100-1). Despite this simplistic definition, France has been at the forefront of the regulatory initiative on drones.

On April 11, 2012, two decrees regulating the conception and the use of drones were issued, and were soon replaced by the Security Reinforcement on the Use of Civilian Drones Law of October 24, 2016. This law provides more precise definitions and specifies obligations that apply both to users and manufacturers.

Drone users are now required to undergo a special training (Article L. 6214-2 of Transportation Code) and manufacturers are to provide information notices relating to the use of drones (Article L. 425-1 of Transportation Code), install safety devices, and register their products with the French Civil Aviation Authority.

Also, by making drone pilots liable in case of wrongfully flying over restricted areas—as defined by the governmental order dated January 27, 2017, and by increasing the applicable penalties (Article L. 232-12 and L. 232-13 of Transportation Code), this legislation tends to deter undesirable uses potentially fostering insecurity. As such, gains are realized in both clarity and safety, and this should not be seen as a luxury when dealing with drones.

Germany: Entering into a New Era of Drone Regulation

Under German legislation, drones are mostly subject to general aviation rules and commercial regulations, but are not exempt from more specific regulatory restrictions pertaining to data protection, IP, and radio spectrum regulation.

The main aviation provisions governing the use of drones are to be found in legal orders issued by the German Ministry of Transport (Sec. 21a – 21f Air Traffic Order and Sec. 19 Air Traffic Admission Order as of March 30, 2017). Even though significant regulatory restrictions apply, flying drones for private or commercial purposes is allowed. And contrary to France, Germany has already set up weight related regulatory obligations: the takeoff weight ("TOW").

In addition to general aviation rules, pilots must respect no-fly zones that include sensitive areas ranging from airports via military and industrial facilities, to federal highways. Such restrictions directly affect drone pilots, but can also have an impact on producers if, for example, they ought to install or program GPS-based software recognizing no-fly zones.

No-fly zones apply territorially but also spatially as drones must stay under a height of 100 meters and be operated within line of sight. But here again, operators can apply for derogations (Sec. 21b (3) LuftVO), which facilitate the development of new drone-based business models.

Finally, other regulatory restrictions affect both drone users and producers. For example, the operation of drones is subject to compulsory liability insurance requirements that are particularly important since drone owners are subject to strict liability.

Italy: Regulating Drone Use and Operator Training

Italy was among the first countries to adopt a regulation on drones. Indeed, as early as December 16, 2013, the Italian Body for Civil Aviation ("ENAC") enacted the Air Means by Remote Pilotage. This regulation includes specific distinctions between aircrafts on the basis of their use and their technical characteristics, and subsequent amendments introduced a distinction based on the activity carried out. Thus, the Air Means by Remote Pilotage regulates two main activities: (i) aircraft systems with remote pilotage that are used for specialized operations or in scientific activities, experimentation, and research and (ii) air models used only in activities for leisure or competition purposes.



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Starting July 16, 2015, the ENAC regulation was regularly amended to modernize Italian unmanned aircraft law. These reforms targeted safety measures. For example, drone pilots must now undergo a specific training and can be subject to obtaining flight authorizations.

United Kingdom: Drones Feature in Plans for High-Tech Economy

The Civil Aviation Authority ("CAA") is responsible for supervising the use of drones in the United Kingdom. The Air Navigation Order 2016 ("ANO") is the principal legislation currently governing the use of drones. The ANO regulates the use of drones by reference to their use, weight, and whether they have surveillance capability.

Under the current ANO rules, all operators of drones for commercial purposes must have a permission issued by the CAA. Permissions are issued for 12 months and are subject to an annual renewal process. Potential operators are required to provide an operations manual to show how drone flights will be conducted and evidence of operator competence. Noncommercial use of drones does not require a permit, but rules on drone weight, surveillance use, flight height, and distance from people and structures apply to noncommercial drone users.

The current rules will soon change. The UK government believes drones have a key role in the development of the United Kingdom's high-tech economy. At the same time, the UK government recognizes that additional legislation is required to support the safe use of drones. In July 2017, the government issued its Response to the Consultation it launched in December 2016 on the safe use of drones in the United Kingdom. The Response sets out groundbreaking changes to the current regime, some of which are expected to be in place in early 2018. The first major change will be the expansion of the permission requirement to noncommercial use of drones, which will result in compulsory registration of almost all drones and almost all drone users operating in UK airspace.

Drone users are and will continue to be required to comply with applicable nonaviation laws, including laws regarding data protection and privacy.

European Union: Regulation of the "U-Space"

The European Union aims at producing effective EU-wide rules to make drone use in low-level airspace (altitudes of up to 150 meters) safe, secure, and environmentally friendly. As such, it targets the implementation of rules concerning registration of drones and drone operators, their e-identification and geo-fencing by 2019.

KEY TAKEAWAYS (by Jurisdiction)

1. France

- Drone operators must undergo special training;
- Drone operators are liable in case of wrongful use of their drone; and
- Manufacturers must provide information notices, install safety devices, and register their products.

2. Germany

- Drones are subject to specific regulations depending on their weight; and
- Drone operators must respect special no-fly zones and spatial restrictions.

3. Italy

- Drones are subject to specific regulations depending on their use; and
- Drone operators must undergo special training and can be required to obtain flight authorizations.

4. United Kingdom

- Currently, drones are subject to specific regulations depending on both their use and weight;
- Drone operators are subject to both civil and criminal liability in case of breach or wrongdoing; and
- New UK laws will be in place shortly requiring

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AUTHORS



Ozan Akyurek
Paris



Rhys W. Phelps
London



Francesca Ravallese
Milan



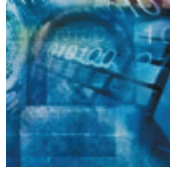
Martin J. Wortmann
Frankfurt

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