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NEW ENAC REGULATION ON DRONES

By Francesco Paolo Ballirano

The Italian National Civil Aviation Authority (ENAC) has issued a new regulation on unmanned aircraft (drones) which is meant to adapt the existing national rules to the entry into force of EC Regulation 2018/1139 (the new “Basic Regulation” in the field of civil aviation) as far as drones are concerned. The new ENAC regulation covers those matters which are still reserved to the competence of Member States pursuant to the EU Commission Delegated Regulation (EU) 2019/945 and Implementing Regulation (EU) 2019/947. In details, the national CAAs will be responsible for (among the others): (i) the certification of pilots; (ii) setting up the registration system for both operators and drones; (iii) issuing authorizations, confirming declarations receipt and supervising operations; (iv) establishing airspace restrictions; (v) enforcing the European Regulation towards operators and pilots; (vi) promoting safety of flight operations; (vii) inspecting operators, pilots and drones to verify their compliance with the applicable rules; (viii) issuing, maintaining, modifying, suspending, limiting or revoking authorizations and certificates needed to perform operations with drones in the “Open” and “Specific” categories or imposing other measures or sanctions, if necessary.

The ENAC Regulation shall also govern the so-called “transitional period”, in order to ensure a gradual conversion from the previous certifications to the new ones granted in compliance with the EASA requirements. In fact, until 1 January 2023, drones which currently do not have class marking can be used in the so-called “Limited Open Category” where the national authority has usually the right to request additional requirements for the pilot. In this context, ENAC has decided to remain

aligned with the open categories of the European Regulation and to not demand for additional requirements from the pilot of unmarked drones. Therefore, the following rules shall apply: (a) drones with a take-off mass below 500g can be conducted by a pilot who has obtained the A1/A3 online certificate on the ENAC portal. The pilot cannot fly over crowds of people and must be registered with the authority; (b) for drones with a take-off mass below 250g (even self-built with max speed 19 m/s) the pilot is not required to obtain a certificate and must be registered with the authority only if the drone is equipped with a camera; (c) drones with a take-off mass below 2 kg can be conducted maintaining a minimum horizontal distance of 50 meters from people but pilots must have achieved the A1/A3 certificate and passed a further written theory exam; (d) with a take-off mass below 25 kg (also self-built) flights must be conducted at least 150 meters away from residential, industrial and recreational areas, and anyway in places where the remote pilot can reasonably expect not to endanger people during the entire flight time. The pilot must have achieved the A1/A3 online certificate on the ENAC portal and must be registered with the authority.

In addition, according to the ENAC Regulation it is not allowed to conduct operations with a drone if the operator has not taken out an insurance coverage within the minimum thresholds established under Regulation (EC) 785/2004. Operators are also responsible to verify flight spaces and maximum heights (UAS geographical areas) set out by ENAC, as well as to register on the D-Flight portal and to affix the QR code on the drone for identification purposes and operational liability issues.

In such an evolving regulatory framework, ENAC proved to be one of the most effective national

authorities in adapting to the new European legislation, working closely with the stakeholders to develop the drone use for a wide range of private and commercial activities.

BREXIT-RELATED LICENSING ISSUES

By Gianfranco Rau

Among the various aviation issues involved in the post-Brexit scenario, from 1 Jan. 2021 UK and EU Member States will have to deal with the implementation of Regulation (EU) No 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew. In this context, on 8 January 2021, the ENAC has published an information circular about the effects of Brexit on the validity of licenses and certificates issued by the UK CAA, which shall be now regarded as coming from a 'third country'. This means that the rules provided for extra-EU countries shall apply to those UK licences/certificates and, accordingly, for recognition in Italy they will have to follow a conversion procedure pursuant to the said Reg. (EU) 1178/2011, as recently amended by the Commission Delegated Regulation (EU) 2020/723. The conversion procedure provides that, without prejudice to international agreements concluded between the Union and a third country, Member States are allowed to issue equivalent licences to applicants who already hold an equivalent licence, rating, privilege or certificate issued by a third country in accordance with the 1944 Chicago Convention, to the extent that those applicants comply with certain requirements based on the specific aircraft category, such as: (i) to pass a written examination in air law and human performance; (ii) to hold a specific medical certificate; (iii) to demonstrate language proficiency; and (iv) to complete at least 100 hours of flight time as a pilot.

As an alternative to this long procedure, the UK licensed people had the chance to freely request the change of competent authority until 31 Dec. 2020 and so to transfer licences and medical records to the CAA of another Member State with a simplified process, preserving their full validity within the EU. In Italy the formal re-issuance of the 'transferred' UK licences/certificates is about to be finalized, while the applications submitted after 31 Dec. 2020 will not be accepted and therefore – as mentioned – they will have to be necessarily converted pursuant to the recognition rules established by Reg. (EU) 1178/2011.

AIR TRANSPORT SECTOR JOINING THE 'MISSION POSSIBLE PARTNERSHIP' TO DECARBONIZE HEAVY INDUSTRY BY 2050

By Giulio Teofilatto

Over 400 companies across some of the world's biggest greenhouse gas emitting industries have agreed to work together on plans to decarbonize by 2050, according to a coalition called 'Mission Possible Partnership' (MPP) convened by the World Economic Forum in cooperation with the Energy Transitions Commission. The platform is focused on developing initiatives for enabling heavy industries and mobility sectors to reduce emissions which account for 30% of the global carbon pollution.

These sectors are aluminum, cement, chemicals, iron and steel, aviation, shipping, and heavy road transport.

Across all seven sectors, MPP will bring together progressive industry leaders and their suppliers, customers, and capital providers, along with the relevant governments. With this level of collaboration and engagement, the MPP will be able to secure mutually reinforcing commitments to action from all the stakeholders.

The MPP' actions in each sector will follow a four-step process: (1) to convene a critical mass of industry leaders and agree on a shared vision for cutting emissions; (2) to develop a sector-specific ambitious roadmap to achieve the targets; (3) to embed the roadmap in concrete corporate strategies (including best-practice public disclosure); (4) to build the market infrastructures needed to support the commitments.

With respect to the aviation sector it is reported that, among the others, the manufacturers Airbus and Boeing, airlines like KLM and easyJet, airports such as Heathrow and fuel providers like Shell will cooperate in the so called 'Clean Skies for Tomorrow' (CST) Coalition. Its main target is to map out a net zero plan for the entire sector and speed the transition to sustainable aviation fuels (e.g. biofuels) and other clean propulsion technologies that may significantly reduce greenhouse gas emissions.

At the end of 2019, the air transport produced 3% of the global emissions and it was expected to double the volume by 2035. The impact of Covid-19 has caused unprecedented disruptions to international travels and a reduction of greenhouse gas production, but decarbonizing the aviation sector shall remain a priority also when flights will return to pre-pandemic levels.