

DIARY DATES

THE 6TH ST. PETERSBURG AIR LAW CONFERENCE

14 October 2016
St. Petersburg, Russia
Laura Pierallini, speaker

EUROPEAN BUSINESS AVIATION ASSOCIATION (EBAA)

AMAC MEETING
18 November 2016
Brussels, Belgium
Laura Pierallini, committee member

AIR LAW WORKSHOP UNIVERSITY OF LEIDEN INTERNATIONAL INSTITUTE OF AIR AND SPACE LAW

24-25 November 2016
Leiden, The Netherlands
Francesco Grassetti, attendee

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ENAC REGULATORY ACTIVITY: FLIGHT AUTHORIZATIONS ON EXTRA-EU ROUTES, OVERFLIGHT TRANSITS AND TECHNICAL STOPS

By Francesco Grassetti

On 21 October 2016 the Italian CAA (ENAC) issued a draft of the new Circular EAL-15A regarding the flight authorization on extra-EU routes, overflight transits and technical stops. This regulation will apply to Italian, European and foreign carriers.

The operation of scheduled air transport services on extra-EU routes is subject to the prior authorization of ENAC, who must be notified of the planned flight programs at least 60 days in advance of the beginning of the relevant IATA traffic season. In addition ENAC requires a copy of any code-sharing agreement involved by the planned operations, as well as the aircraft load factor and a forecast of passenger and cargo data in the event of the launching of a new route.

In respect of Italian and European carriers the requests are evaluated in light of the prior designations made under the bilateral or multilateral agreement with the concerned State, while –

lacking any such agreement – the authorizations are granted subject to the subsequent approval of the operational programmes by the competent foreign CAA.

ENAC authorizes extra-EU carriers upon designation their States of origin. Whether the requested traffic rights are not governed by an air service agreement between Italy and the extra-EU State then the request must be submitted by the competent foreign CAA directly to ENAC. If the applicant carrier flies for the first time to/from Italy it must be also accredited with ENAC after being granted an EASA TCO (third country operators) authorization. The ENAC accreditation is based on the following: (i) consistency between the applicant carrier's air operator certificate and the contents of the TCO authorization for the aircraft to be operated in Italy; (ii) approval of the applicant carrier's safety program by the competent CAA and declaration of conformity to the Annex 17 ICAO; (iii) valid insurance coverage pursuant to Regulation (EC) No. 785/2004.

When the air transport services are to be operated by means of aircraft taken on wet-lease, to grant the flight authorization ENAC also requires copy

of the: (i) wet-lease agreement inclusive of the route schedule; (ii) authorization to enter into the wet-lease released by the competent CAA; (iii) insurance coverage for passenger, baggage and cargo. If the wet-leased aircraft is recorded under the air operator certificate of an extra-EU carrier (acting as lessor) the same shall be accredited by ENAC based on its EASA TCO authorization.

Prospective changes to the authorized flight programs must be notified to ENAC at least 5 business days before the beginning of the operations, provided that a new authorization is necessary to the extent that such changes last more than 2 months and/or affect the compliance with air service agreements and traffic rights.

As far as overflight transits of, and technical stops in, the Italian territory, carriers of extra-EU States being party to the International Air Services Transit Agreement signed in Chicago on 1944 – or with which Italy has entered into a specific transit agreement – are entitled to overfly and stop for technical purposes without prior authorization (an advance notice to ENAC is sufficient). Otherwise the prior authorization is mandatory, along with a copy of the air operator certificate if the carrier overflies Italy for the first time, as well as evidence of the insurance coverage pursuant to Regulation (EC) No. 785/2004 in case of technical stops.

Until 21 Nov. 2016 ENAC will be collecting remarks to the revised rules from stakeholders of the aviation sector, after that the new Circular is expected to come into force by the end of 2016.

FIRST CERTIFICATION OF AN ITALIAN DRONE PROJECT

By Francesco Paolo Ballirano

ENAC has recently granted the first certification of a drone project designed by an Italian manufacturer. Pursuant to article 13 of the ENAC Regulation on remotely piloted aerial vehicles, a project certification allows manufacturers to release statements of conformity for single drones on sale to the public. The function of these statements is to attest that a certain type of product satisfies all the requirements provided by the said Regulation.

In particular, to obtain the certification of a drone project the relevant manufacturer must provide and guarantee the following: (i) a suitable organization to release statements of conformity and manage possible inconveniences; (ii) to establish a specific configuration for the drone type to be certified by ENAC; (iii) the accomplishment of any proper analysis and tests in order to determine the

conditions and limitations of use in terms of safety; and (iv) to issue the applicable flight manuals and maintenance manuals.

Therefore an operator willing to use a certified drone for its own purposes (either privately or for business) shall not demonstrate the suitability and safety of its aerial system but only the conformity of the latter with the ENAC project certification. This is certainly an important step to simplify the flight authorization processes, mainly for the benefit of professional activities carried out by means of drones (e.g. photographs, surveillance, collection of data).

PROVISIONAL SUSPENSION OF THE ADDITIONAL LOCAL TAX ON PASSENGER EMBARKATION

By Lorenzo Sperati

By ministerial decree no. 357/2015 the Italian Ministry of Transport - upon consultation with the Ministry of Finance - had introduced an additional local tax on embarkation of passengers at Italian airports in the amount of Euro 2,50 per flight ticket during 2016.

The revenues generated by the passenger embarkation taxes are destined for the account of the Italian Social Security Institute (INPS) and are collected by the airport managing companies, which are entitled to retain a 0,25% of the amount as refund of costs for the collection services and communication duties to the authorities.

The Law Decree no. 113/2016, converted into Law no. 160/2016, has suspended such additional local tax for the period from 1 September to 31 December 2016. On the contrary the charges provided for 2017 (Euro 2,42), 2018 (Euro 2,34) and 2019 (Euro 0,32) remain unvaried to date.

The suspension of the tax collection has been welcomed by the aviation industry, category associations (such as IBAR – the Italian Board Airline Representatives) and consumers in light of the positive effects on the civil air transport and the national economy in general, taking into consideration the increasing demand of mobility by air. The stakeholders now expect that the additional local tax be finally waived also for the years to come. According to a recent study conducted by IATA, the introduction of an additional tax equal to Euro 2,50 per flight ticket is able to cause a reduction of 750.000 passengers per year and the consequent loss of 2.200 job positions within the aviation sector and satellite activities.