



RPAS SYMPOSIUM

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PRESENT AND FUTURE OF THE RPAS LEGAL FRAMEWORK (from a litigator's point of view)

– The French example –

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INTRODUCTION

- A drone is an aircraft pursuant to the French Transportation Code (article L. 6100-1)
- Like a few other European States, France has its own legislation on RPAS
- France's legislation is well in advance ; France authorizes some flights beyond the remote pilot's sight.
- French criminal system is highly developed but has not been frequently used (very few court decisions yet). However it helps at limiting unlawful/malicious flights, that could, in the long run, prevent the development of the French RPAS professional industry.
- Challenges for the French legal system = without stifling the French industry, implement a legal framework addressing the following issues: safety of persons and goods, systems' security, privacy (paparazzi drones), RPAS certification, proper insertion of RPAS into civil non segregated airspace (above 500 feet AGL)...





CURRENT STATE OF THE FRENCH LEGISLATION

Key elements of the French legislation

- Two decrees of April 11th 2012 :
 - A joint ministerial decree (defense/civil aviation) "*relating to the use of French airspace*" by RPAS
 - A decree issued by the minister responsible for civil aviation, relating to "*the design of civil remotely piloted aircrafts, their conditions of use, and the skills required of their users*"
- The difference between model aircrafts (recreational) and remotely piloted aircrafts (professional) only depends on the use made of the drone.
- A professional operator wishing to use a drone shall:
 - Submit a manual of specific activities (called "MAP") approved by the DGAC
 - Be trained for drone piloting : obtain a declaration of level of competence (called "DNC")
 - Hold a liability insurance
 - Operate a drone approved by the DGAC





CURRENT STATE OF THE FRENCH LEGISLATION

Key elements of the French legislation

S1	S2	S3	S4
In direct view	Beyond the remote pilot's sight	In direct view	Beyond the remote pilot's sight
Clear of populated area	Clear of populated area	Within populated area or close to a gathering of persons/animals	Clear of populated area
Horizontal maximum distance of 100m from the remote pilot	Horizontal maximum radius of 1km around the remote pilot	Horizontal maximum distance of 100m from the remote pilot	Specific activities and flight that do not meet scenario S2 criteria
Maximum flying height of 150m	Flying height lower than 50m from the ground or artificial obstacles	Maximum flying height of 150m	Maximum flying height of 150m

CATEGORY C	CATEGORY D	CATEGORY E	CATEGORY F	CATEGORY G
Captive aircraft Weight < 150kg	Non captive aircraft Weight < 2kg	Non captive aircraft 2kg < weight < 25kg	Non captive aircraft 25kg < weight < 150kg	Non captive aircraft Weight > 150kg
<p><u>Weight < 25kg</u></p> <ul style="list-style-type: none"> - Exemption of airworthiness document - Ability to fly must be assessed by the operator (supporting documents must remain at the disposal of the Minister responsible for civil aviation) <p><u>Weight > 25kg</u></p> <p>Flight authorization is issued by the Minister responsible for civil aviation</p>	<p>Exemption of airworthiness document</p> <p>Ability to fly must be assessed by the operator (supporting documents must remain at the disposal of the Minister responsible for civil aviation)</p>	<p>Exemption of airworthiness document</p> <p>Ability to fly must be assessed by the operator (supporting documents must remain at the disposal of the Minister responsible for civil aviation)</p>	<p>Flight authorization issued by the Minister responsible for civil aviation proving the airworthiness of the aircraft</p>	<p>Airworthiness controlled by the EASA (European Aviation Safety Agency)</p>
S1 and S3 (if weight < 4kg)	S1, S2, S3 et S4	S1, S2 and S3 (if weight < 4kg)		



CURRENT STATE OF THE FRENCH LEGISLATION

Applicable legal provisions in case of unlawful use of a drone over the French territory

GENERAL LAW

- **Risks caused to other persons** : article 223-1 of the Criminal code (up to 1 year of imprisonment + 15,000€ fine).
 - **Involuntary offences against the physical integrity of the person** : article 222-19 of the Criminal code (up to 3 years of imprisonment + 45,000€ fine)
 - **Offences against privacy** : combined application of article 9 of the Civil code and article 226-1 of the Criminal code (up to 1 year of imprisonment + 45,000€ fine)
- It is also possible to trigger the **criminal liability of legal persons** : article 121-2 of the Criminal code + articles 223-2, 222-21 and 226-7 of the Criminal Code (for each of the above offences).

SPECIALIZED LAW

– *Transportation code*

- **Damage caused to another drone (collision)**: article L. 6131-1 (refers to the Civil code – tort law)
- **Strict liability of the drone's operator** : article L. 6131-2
- **Flight operated in unlawful conditions** : for example article L. 6232-4 regarding **airworthiness documents** (up to a year of imprisonment + 75,000 € fine) or article L.6142-5 regarding the **registration of the aircraft** (up to a year of imprisonment +75,000 € fine).
- **Obstacle to air traffic or air navigation** : article L. 6372-4 (up to 5 years of imprisonment + 18,000€ fine)

– *Post and Telecommunication code*

- **Use of an unauthorized frequency**: article L.39-1



CURRENT STATE OF THE FRENCH LEGISLATION COURT APPLICATION OF THE LEGISLATION

- Very few Court decisions yet
- Some highly publicized judgments
 - A schoolboy from Nancy made its drone, equipped with a GoPro camera, fly over the Stanislas Square, without prior authorization. The Court of first instance of Nancy sentenced him to a 400 euros fine on May 20th 2014.
 - A British journalist of the TV channel AL-Jazira was sentenced to a 1,000 euros fine on May 3rd 2015. His drone was flying over the Bois de Boulogne, taking pictures of Paris for a television coverage, without any authorization.



GTA's overview of the application of the civil RPAS legislation :

- 38 police investigations = 10 police warnings + 8 sentences
 - 2 conditional sentences of imprisonment + 3 fine sentences with confiscation of the drone + 3 mere fine sentences
- 46 reports of flights over a nuclear facility = 26 police investigations



DRONES IN THE AIR TRAFFIC OF FRENCH AIRPORTS



AIRBUS UAV DEMONSTRATOR / BORDEAUX-MERIGNAC

- UAV demonstrator based on a plane MCR4S, with a safety pilot on-board.
- Insertion of a slow flying RPAS into a non homogenous traffic (mid-traffic density – regional airport hub).
- From February 2nd to 6th 2015.
- Test of failure procedures and unusual situations : loss of radio link, GPS failure, loss of RPAS control link...
- TEMPAERIS Consortium

SAGEM PATROLLER DRONE / TOULOUSE-BLAGNAC

- Full-scale tests for 10 consecutive days in October/November 2014 :
 - First part = test of the ability of the remotely piloted vehicle to enter the air traffic of an international airport (standard approaches, take-offs, taxiing...)
 - Second part = test of the "*detect and avoid*" function
- ODREA Consortium





FRENCH STAKEHOLDERS AND PUBLIC EXPECTATIONS

A distinction should be made between :

➤ **Stakeholders' expectations**

- Contractor's viewpoint (industrial customers such as operators of the train industry - SNCF networks' surveillance), civil engineering (Bouygues) and agriculture (INRA/IRSTEA)
- Operators' viewpoint
- Manufacturers' viewpoint

➤ **Public expectations and regulations**

- Achieving the correct balance between innovation and personal privacy
- FRANCE must keep its high level of boldness in terms of legal framework
- Next step = safe insertion of RPAS into airspace and appropriate insurance requirements





THE DGAC'S PROPOSAL FOR A CHANGE IN THE LEGISLATION

Following a public consultation started in October 2014, the DGAC released a first draft proposal in July 2014 :

- Extension of the scope of the legislation to non-commercial activities
- New flight scenarios S1 to S4
 - Horizontal maximum distance will rise from 100m to 200m for the scenario 1
 - Maximum flying height will rise to 150m if the total weight of the drone and its charge is not higher than 2kg
 - Non-captive aircrafts from 4kg to 8kg will have to carry a safety parachute (for scenario 3)
 - All aircrafts weighting less than 2kg no longer need any specific authorization or design certificate
- Clarification of the technical and editorial requirements
- Administrative simplifications and new definitions



CONCLUSION PLANS FOR THE FUTURE

- Further to the March 6th Riga Declaration, maintain France and Europe leadership and boldness from a legal perspective, especially regarding the flights operated beyond the remote pilot's sight.
- Make sure that the legal framework
 - does not become too rigid (yet...)
 - evolves in conjunction with, on the one hand, ICAO, EASA, SESAR-JU, JARUS, EUROCONTROL, ECAC, EDA, and on the other hand, industrial players and end-user customers.
- Towards the insertion of RPAS in non segregated airspace above 150 meters (500 feet AGL) : first, IFR in 2023, then, VFR in 2028 ?
- Foster the development of this new sector which brings jobs and growth.

