



**WORKING PAPER**

**LEGAL COMMITTEE – 39TH SESSION**

(Montréal, 25 – 28 June 2024)

**Agenda Item 2: Consideration of the General Work Programme of the Legal Committee**

**PROVISIONS ON CIVIL LIABILITY FOR REMOTELY PILOTED AIRCRAFT (RPA)  
OPERATIONS**

(Presented by the Dominican Republic)

**1. BACKGROUND**

1.1 ICAO defines a remotely piloted aircraft (RPA) as an unmanned aircraft that is piloted from a remote pilot station. Given the dramatic growth in this mode of transportation, including innovations in the manufacture and operation of such aircraft, ICAO has been taking steps to implement measures to ensure the safety of RPA operations, taking into consideration the nature thereof.

1.2 In March 2015, ICAO held a symposium on remotely piloted aircraft, and the Council of ICAO, during its 222nd Session in March 2021, adopted an amendment to Annex 8 – Airworthiness, which addresses certification requirements for remotely piloted aeroplanes and helicopters and the remote pilot stations (RPS) from which they are operated. The new provisions entered into force on 12 July 2021, and will become applicable on 26 November 2026.

**2. DISCUSSION**

2.1 RPA are being used more every day in a variety of activities, including to promote innovations in technological development, and for many different purposes (recreation, geology, archaeology, forestry, missing person searches, healthcare, firefighting and rescue). States use RPA for border surveillance and activities related to migration and drug trafficking. In the commercial realm, they are increasingly being used for goods transport, agro-industry, aerial photography and cartography, among other activities.

2.2 The growth of RPA operations represents a challenge in terms of maintaining the safety of State-controlled airspace, which has led several States to develop specific regulations – outside the Airworthiness Standards contained in Annex 8 – for the registration of these aircraft, the issuance of licenses to pilots to certify their ability and fitness, delineation for operating in certain areas and restrictions on operations in the vicinity of airports and aerodromes.

2.3 During the 41st Session of the ICAO Assembly, the Legal Commission examined Working Paper A41-WP/327, in which the Dominican Republic noted the need for Member States to have an international legal regime to determine the amounts and coverage for civil liability arising from the operations of remotely piloted aircraft (drones), in view of the dramatic growth and innovations in the use

---

<sup>1</sup> Spanish version was provided by the Dominican Republic.

of this type of aircraft for a variety of passenger and cargo air transport activities, aerial work (such as photography and recording, aerial cartography, agriculture and agro-industry), emergency medical units and transport of medicines to remote locations, among other commercial and non-commercial activities.

2.4 Working Paper A41-WP/327 highlighted the need to determine the applicable regime for initiating a claim for damage caused by a remotely piloted aircraft and the criteria to be taken into account with respect to the extent of the damage, the nature of the operation (business, commercial or recreational) and the link between an action, the existence of damage and a direct causal link between the action and the damage.

2.5 The Working Paper also noted the absence of unified criteria relating to civil liability coverage for damages that might be caused by RPA operations to persons or goods being transported or to property or persons on the surface. Several delegations voiced their support, and the ICAO Secretariat, after expressing appreciation for the Working Paper, noted that the significant questions raised therein could be covered under the existing item on the Work Programme relative to unmanned (pilotless) aircraft. The Secretariat proposed that the Working Paper be referred for review by the Secretariat Study Group on Legal Issues related to Pilotless Aircraft (SSG-LIPA).

2.6 To date, some States have formulated regulations aimed at providing a national response to the issue of liability coverage for damage caused by remotely piloted aircraft. One example is European Commission Implementing Regulation (EU) 2019/947 on the use of unmanned aircraft, in force since July 2021. This regulation establishes the obligation to have liability insurance for all operations carried out by drones, except for military operations. It also provides that coverage may vary depending on the type of activities to be performed and the areas where the aircraft will operate.

2.7 For operations carried out with remotely piloted aircraft or drones, the State Agency for Air Security of Spain requires an insurance policy covering civil liability for damages to third parties that may occur during and due to the execution of every flight, whether for recreational or for professional purposes. It is specified that the payment of insurance coverage does not exempt the operator or responsible person from liability for possible damages or injury to third parties.

2.8 The Dominican Republic has made some progress with regard to regulations on remotely piloted aircraft operations, including a requirement (Dominican Aviation Regulation RAD 48) for registration and marking of small remotely piloted aircraft weighing no more than 55 lb (25 kg), and Regulation 107 (RAD 107) governing the operations of small remotely piloted aircraft systems. The country's regulatory framework also establishes penalties for non-compliance with national aviation regulations.

2.9 The Civil Aviation Act (Act No. 491-06) of the Dominican Republic, in article 191 and subsequent articles, establishes the civil liability of a national or foreign air operator with respect to damages and/or death caused to passengers, cargo and third parties on the surface. The Act also includes provisions concerning civil liability for aircraft collisions and the civil liability of air operators.

2.10 With regard to provisions of ordinary law, article 1382 of the Dominican Civil Code enshrines the fundamental principle of individual civil liability as follows: "Any action by a person which causes harm to another person shall incur the obligation of the person at fault to provide redress." It follows from the above that, notwithstanding the lack of a specific legal regime governing drone operations, any operator or user of such aircraft can be held civilly and criminally liable in applicable cases for such operations. Article 1384 of the Code provides that "a person is responsible for harm caused not only by his/her own actions, but also for harm caused by other persons or things in their charge".

3. **CONCLUSION**

3.1 In the light of the foregoing and given the importance of the issue of civil liability arising from the operations of remotely piloted aircraft (RPA-drones), we believe that it is important for ICAO to continue developing criteria that States can use to establish their own regulations, taking into consideration the progress shown by some States and groups of States and the complexity, nature and risk of the operations.

— END —