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Legal Briefing | Disruptive tech

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Will drones start to be part of our daily lives by 2019?

Who would have believed that what we had only seen in movies or we read about in our childhood would eventually become real in our lifetime?

We are witnesses and co-creators to the fourth industrial revolution, where artificial intelligence, robotics and advanced automation will bring about changes at every level and in every sector of our society.

In this context, unmanned aircraft systems (UAS) or drones are one of the most innovative and disruptive technologies of our day. Their exponential growth is determined by the new services associated with new jobs, new business and new opportunities. We see that drones are used now in sectors that once were reserved only to nature itself; a mega-corporation recently filed a patent for 'pollination drones' that could

act like bees and there is only one step until flying cars will arrive.

The drone services market is estimated to increase from €200m to several billion by 2020 with a direct impact on drone services providers and indirect impact that will determine a wider EU market.

European Union regulatory framework

Currently, the European Union member states have competence to regulate the UAS with a maximum take-off mass (MTOM) of less than 150kg that are not used for military, customs, police, firefighting, search and rescue, and experimental work, as per Regulation (EC) no 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) no 1592/2002 and Directive 2004/36/EC (Regulation no 216/2008).

Therefore, for the safe and effective use of the airspace and the need for protection of citizens based on safety, security, privacy and the environment, a new proposed regulation is currently under discussion between the Council, the European Commission, and the European Parliament, aiming to harmonise the member states' internal legislation, extend the competence of the EU to regulate all UAS regardless of their MTOM. The new regulation is to be adopted by the end of 2018.

Until the new regulation comes into force, the Romanian regulatory framework applicable to drones is trying to keep up with this fast development.

Flying a drone under Romanian regulatory framework

At present, Romanian legislation in the field consists of Regulation no 216/2008, Civil Aeronautical Code, government decisions, ministry's orders and directives issued by the Romanian Civil Aeronautical Authority (RCAA), which provides that any UAS with a MTOM over 0.5kg should be registered with the RCAA, should bear an electronic identification device and a national identification mark imprinted on it.

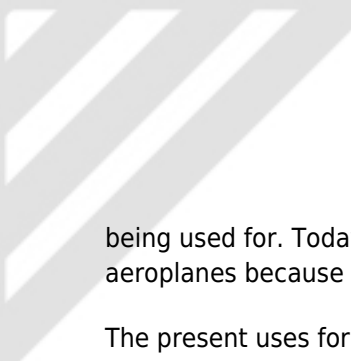
Any UAS with a MTOM over 15kg should obtain a national flight permit and a flight authorisation based upon a flight plan submitted with the RCAA by the drone operator and a proof of a third-party liability insurance concluded for the UAS.

There are certain restrictions imposed for UAS flight and take-off/landing. The flights below 300m height above the densely populated area or any flight outside the densely populated area below 150m height and UAS are forbidden. In addition, the activities of aerial photography or filming or any flight over Bucharest below 3,000m height should be performed based on a prior approval issued by the National Defence Ministry, drones distributors should be authorised by the RCAA.

The Romanian Transport Ministry and RCAA are trying to adapt to this fast-changing industry having published a draft updating the internal regulation applicable to drones. The draft aims to separate the commercial flight activity from the sport, recreational, research and development flights, as well as to create a framework for the latter to be operated. The UAS registration with the RCAA will be mandatory for any drone with a MTOM over 0.25kg and specific conditions are imposed for a drone with a MTOM less than or equal to 25kg to fly without a flight authorisation document.

A market emerges

The drone industry is growing fast and every week we see press releases on what new areas drones are



being used for. Today, drones are used in some sectors that once were reserved for helicopters and aeroplanes because they are easily available and are faster than traditional aeronautical transportation.

The present uses for drones are currently in various economical fields: exploration, precision farming, security, media, aerial inspection, energy exploration, delivery, oil rig delivery, but there are new drone uses which are still in the experimental and research stages. Without doubt, we will also see many hundreds of new uses for drones in the coming years.

Although Romania has a few well recognised manufacturers, the direct impact on drone service providers is insignificant. Once the new regulation will enter into force, this domain will witness an exponential growth. But for the time being, the national regulation framework is perceived as restrictive by the Romanian drone owners.

But not only the economy and the existing aviation systems need to adapt to this disruptive technology. Along with its many uses, there are sensible areas on which drones' impact is also disruptive, such as privacy, data protection and competition. We will see in the coming years how these areas will be affected and what rules a drone operator/owner should follow.