Commission Implementing Regulation (EU) 2020/639 of 12 May 2020 amending Implementing Regulation (EU) 2019/947 as regards standard scenarios for operations executed in or beyond the visual line of sight (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2020/639

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amending Implementing Regulation (EU) 2019/947 as regards standard scenarios for operations executed in or beyond the visual line of sight

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 216/2008 and (EC) No 552/2004 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91[(1)], and in particular Article 57 thereof,

Whereas:

(1) Pursuant to Commission Implementing Regulation (EU) 2019/947[(2)], an unmanned aircraft system ('UAS') must comply with operational limitations set out in operational authorisations or in a standard scenario, established by that Regulation.

(2) On the basis of the experience of Member States, the European Union Aviation Safety Agency (EASA) developed two standard scenarios for the operations.

(3) Standard scenario 1 ('STS-01') covers operations executed in visual line of sight ('VLOS'), at a maximum height of 120 m over a controlled ground area in a populated environment using a CE class C5 UAS.

(4) Standard scenario 2 ('STS-02') covers operations that could be conducted beyond visual line of sight ('BVLOS'), with the unmanned aircraft at a distance of not more than 2 km from the remote pilot with the presence of airspace observers, at a maximum height of 120 m over a controlled ground area in a sparsely populated environment, and using a CE class C6 UAS.

(5) Implementing Regulation (EU) 2019/947 should therefore be amended to include those standard scenarios.

(6) Where the probability of encountering manned aircraft is not low, Member States may establish geographical zones in such areas to prevent UAS operators from conducting operations under standard scenarios.

(7) A requirement for a minimum overall mark attesting that remote pilots have successfully completed the theoretical knowledge examination should be introduced.

(8) In order to improve the conspicuity of the unmanned aircraft flown at night, and in particular, to allow a person on the ground to easily distinguish the unmanned aircraft from a manned aircraft, a green flashing light should be activated on the unmanned aircraft.

(9) Well defined rules should apply to practical skill training and assessment of remote pilots operating under a standard scenario. That training and assessment should be provided by an entity recognised by the competent authority or by an UAS operator in compliance with requirements laid down in this Regulation.

(10) In case of cross-border operations or operations outside the Member State of registration by a holder of a light UAS operator certificate (LUC), the Member State of operation should receive information regarding the location or locations of the intended operation.

(11) EASA prepared draft implementing rules and submitted them with Opinion No 05/2019[(3)] pursuant to points (b) and (c) of Article 75(2) and with Article 76(1) of Regulation (EU) 2018/1139.

(12) The measures provided for in this Regulation are in accordance with the opinion of the committee established in accordance with Article 127 of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) 2019/947

Implementing Regulation (EU) 2019/947 is amended as follows:

(1) in Article 2, the following points (24) to (34) are added:

(24) "unmanned aircraft observer" means a person, positioned alongside the remote pilot, who, by unaided visual observation of the unmanned aircraft, assists the remote pilot in keeping the unmanned aircraft in VLOS and safely conducting the flight;

(25) "airspace observer" means a person who assists the remote pilot by performing unaided visual scanning of the airspace in which the unmanned aircraft is operating for any potential hazard in the air;

(26) "command unit" ("CU") means the equipment or system of equipment to control unmanned aircraft remotely as defined in point 32 of Article 3 of Regulation (EU) 2018/1139 which supports the control or the monitoring of the unmanned aircraft during any phase of flight, with the exception of any infrastructure supporting the command and control (C2) link service;

(27) "C2 link service" means a communication service supplied by a third party, providing command and control between the unmanned aircraft and the CU;

(28) "flight geography" means the volume(s) of airspace defined spatially and temporally in which the UAS operator plans to conduct the operation under normal procedures described in point (6)(c) of Appendix 5 to the Annex;

(29) "flight geography area" means the projection of the flight geography on the surface of the earth;

(30) "contingency volume" means the volume of airspace outside the flight geography where contingency procedures described in point (6)(d) of Appendix 5 to the Annex are applied;

(31) "contingency area" means the projection of the contingency volume on the surface of the earth;

(32) "operational volume" is the combination of the flight geography and the contingency volume;

(33) "ground risk buffer" is an area over the surface of the earth, which surrounds the operational volume and that is specified in order to minimise the risk to third parties on the surface in the event of the unmanned aircraft leaving the operational volume;

(34) "night" means the hours between the end of evening civil twilight and the beginning of morning civil twilight as defined in Implementing Regulation (EU) No 923/2012[(4)].;

(2) paragraph 5 of Article 5 is replaced by the following:

5. Where the UAS operator submits a declaration to the competent authority of the Member State of registration in accordance with point UAS.SPEC.020 laid down in Part B of the Annex for an operation complying with a standard scenario set out in Appendix 1 to that Annex, the UAS operator shall not be required to obtain an operational authorisation in accordance with paragraphs 1 to 4 of this Article and the procedure laid down in paragraph 5 of Article 12 shall apply. The UAS operator shall use the declaration referred to in Appendix 2 to that Annex.;

(3) in Article 13 a new paragraph 4 is added:

4. Where a UAS operator holding an LUC with privileges in accordance with point UAS.LUC.060 of the Annex intends to conduct an operation in the "specific category" taking place partially or entirely in the airspace of a Member State other than the Member State of registration, the UAS operator shall provide the competent authority of the Member State of intended operation with the following information:

a a copy of the term of approval received in accordance with point UAS.LUC.050 of the Annex; and

b the location or locations of the intended operation in accordance with paragraph 1(b) of this Article.;

(4) in Article 14, the following paragraph 9 is added:

9. In addition to the data defined in point (2) Member States may collect additional identity information from the UAS operators.;

(5) in Article 15, point (a) of paragraph 1 is replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/639. (See end of Document for details)*

(a) prohibit certain or all UAS operations, request particular conditions for certain or all UAS operations or require a prior flight authorisation for certain or all UAS operations;;

(6) Article 22 is replaced by the following:

Article 22

Without prejudice to Article 20, the use of UAS in the "open" category which do not comply with the requirements of Parts 1 to 5 of the Annex to Commission Delegated Regulation (EU) 2019/945[(5)] shall be allowed for a transitional period of two years starting one year after the date of entry into force of this Regulation, subject to the following conditions:

(a) unmanned aircraft with a take-off mass of less than 500 g are operated within the operational requirements set out in points UAS.OPEN.020(1) of Part A of the Annex by a remote pilot having competency level defined by the Member State concerned;

(b) unmanned aircraft with a take-off mass of less than 2 kg is operated by keeping a minimum horizontal distance of 50 meters from people and the remote pilots have a competency level at least equivalent to the one set out in point UAS.OPEN.030(2) of Part A of the Annex;

(c) unmanned aircraft with a take-off mass of less than 25 kg is operated within the operational requirements set out in point UAS.OPEN.040(1) and (2) and the remote pilots have a competency level at least equivalent to the one set out in point UAS.OPEN.020(4)(b) of Part A of the Annex.;

(7) Article 23 is replaced by the following:

Article 23

1 This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2020.

2 Paragraph 5 of Article 5 and point (1)(l) of point UAS.SPEC.050 shall apply from 2 December 2021;

3 Point (2)(g) of point UAS.OPEN.060 shall apply from 1 July 2022.

4 Without prejudice to paragraph 1 of Article 21, until 2 December 2021 Member States may accept declarations made by UAS operators in accordance with paragraph 5 of Article 5, based on national standard scenarios or equivalent, if those national scenarios meet the requirements of point UAS.SPEC.020 of the Annex.

Such declarations shall cease to be valid from 2 December 2023.

5 Paragraph 3 of Article 15 shall apply from 1 July 2021.;

(8) the Annex is replaced by the Annex to this Regulation.

Article 2

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 May 2020.

For the Commission

The President

Ursula VON DER LEYEN