

## Italy: Italy To Issue Fresh Regulations On Commercial Drones

Last Updated: 20 March 2014

Article by [Yan Pecoraro](#)

Portolano Cavallo Studio Legale



### INTRODUCTION

The unmanned aircraft systems industry is growing rapidly; drones have a wide range of potential civilian and scientific uses, including law-enforcement and traffic monitoring, but so far they have been overwhelmingly used for military purposes such as reconnaissance and combat operations.

Technological developments as well as decreased operating costs will likely boost the use of unmanned aircraft systems for commercial purposes such as industrial/agricultural monitoring, video surveillance, commercial deliveries (Jeff Bezos, chief executive officer of Amazon.com Inc. recently declared that the world's largest e-commerce company "*is testing drones to deliver goods [...] to improve efficiency and speed in getting products to consumers*;" DHL has also posted some pictures of its test of delivery-drones), while many further uses will be identified based on how and to what extent drone technology improves.

The opportunities presented by the drone industry have also attracted significant investment. According to data provided to Bloomberg News by PricewaterhouseCoopers and the National Venture Capital Association in November 2013, US venture investors poured USD40.9 million into drone-related startups in the first nine months of 2013, more than double the amount for all of 2012, and several EU countries are seen as potentially interested in backing an "*European military drone program*" which could be regarded as the first step in subsequent investments in R&D for commercial drones. The increased use of drones inevitably raises several issues from a legal perspective: privacy law, torts law, insurance law, civil aviation regulations and many other areas of law could be relevant to the operation of drones. The technology for drones is (almost) here, but government regulations around the world are not always up to speed.

To date few authorities around the world have thoroughly regulated the commercial use of drones, but the increasing interest in the industry has led some civil aviation authorities to issue guidelines, roadmaps and regulations. In the US the Federal Aviation Administration has recently published a [roadmap](#) for the integration of civil unmanned aircraft systems into the national airspace system and has selected six test sites where different groups will test how to integrate drones into US airspace. In Europe some civil aviation authorities, including the Italian Civil Aviation Authority (ENAC) have issued regulations applicable to commercial drones.

### ENAC'S FRESH REGULATION ON DRONES

ENAC has recently published a [regulation](#) (the "Regulation") setting forth the general conditions under which unmanned aircraft systems falling under its jurisdiction can be operated for commercial purposes in Italy; the Regulation was expected to become effective on February 17, 2014 but, given the large amount of requests for clarifications received, as well as applications for licenses filed with the authority, ENAC decided to postpone the effective date until April 30, 2014.

The Regulation is still under the scrutiny of ENAC, which has anticipated that it will review the Regulation taking into account comments received from operators and manufacturers. That being said, an analysis of the Regulation provides a general understanding of the Italian legal framework on commercial drones.

### DEFINITION OF DRONES

So, what is a drone according to ENAC? Drones falling under the jurisdiction of ENAC are unmanned aircraft systems (known in Italian as "*Sistemi di Aeromobili a Pilotaggio Remoto - in short SAPR*") with a takeoff weight lower than 150kg and flown outdoors by a remotely based "pilot."

By and large ENAC has set two standards of regulations: a first and more flexible set of rules applicable to drones with a takeoff weight lower than 25kg ("Light Drones") and stricter rules applicable to drones with a takeoff weight higher than 25kg ("Heavy Drones").

The Regulation provides for two different levels of authorizations to operate Light and Heavy Drones; the required authorization varies based on the weight as well as the actual use of the drone.

Under certain conditions, Light Drones could be operated based on self-certification (attesting that the drone complies with the Regulation) filed with ENAC along with some technical documents; certain uses of Light Drones with a high level of risk, as well as any use of Heavy Drones, require formal certification issued by ENAC following a technical review of the drone. Furthermore, Heavy Drones must be registered with ENAC and are subject to the applicable flying rules issued by ENAC.

Every drone must be identified by two identical labels applied to the drone and the operating system respectively.

Different rules may also apply depending on where a drone flies; flying a drone in "V70" air space (as defined by the Regulation) does not require authorization to use the air space, while flying a drone in "V150" air space (as defined by the Regulation), or within a radius of 8km of an airport, requires authorization from ENAC to use the air space.

Under article 17 of the Regulation pilots of drones must be at least 18 years old, have knowledge of the applicable air rules, have specific knowledge of how to operate an unmanned aircraft system (the manufacturer or other authorized entities could issue a certificate for this purpose) and be certified by an M.D. as being in good health. While this requirement could be self-declared by pilots of Light Drones used in non-critical conditions, pilots of Heavy Drones must obtain a specific authorization issued by ENAC after appropriate medical tests.

## **EQUIPMENT**

The operating system must be equipped with radio systems enabling the pilot to communicate with air traffic controllers, as well as a transponder to fly a drone in uncontrolled air space.

To avoid out of control flights and damage on the ground, the Regulation grants ENAC the right to require the installation of specific features onto the drone, such as navigation lights and systems allowing the pilot to remotely cancel the flight safely. In addition, the data link between the drone and the controlling station must not interfere with other frequencies and it is the operator's responsibility to apply for a license (if any) to use the radio frequency.

## **INSURANCE REQUIREMENT**

Under article 21 of the Regulation, anyone flying a drone must hold insurance providing a maximum guaranteed coverage at least equal to that indicated in Article 7 of EU regulation no. 785/2004.

In this respect, the Regulation has overtaken insurance providers as to date one of the issues faced by an operator desiring to fly a drone in Italy has been the lack of adequate insurance products.

## **DATA PROTECTION ISSUES**

Finally, it is worth noting an area of law which could be particularly relevant when flying a drone: privacy. Drones are frequently equipped with cameras, recording devices and on-board memory storage which potentially allow them to collect and process a substantial amount of personal data. In this respect the Regulation does not introduce new rules in Italy, but only requires the operator to comply with the applicable data-protection laws and regulations issued by the data protection authority. To date the Italian data protection authority has not issued any regulation, nor carried out any investigation, on drones. However, with the future increase in drone flights in Italy, there is a high chance that the data protection issues connected with the operation of drones will be investigated by the Italian data protection authority.

It is somewhat difficult at this stage to predict the outcome of such an investigation; the outcomes of the Italian data protection authority's investigation of Google Street View in Italy back in 2010 (please see [press release](#)) could be seen as the most relevant precedent applicable to privacy issues connected with drones.

## **CONCLUSIONS**

As we have stated, the technology is here, but the laws are not up to speed and will require some fine-tuning in view of the future increase in the number of commercial drones in Italy; in addition to the regulations specifically dedicated to drones, operators will need to deal with several other areas of law which might apply to drones flying in Italy.

## **Footnotes**

1 The operation of drones for military purposes is generally subject to the jurisdiction of military authorities.

2 A translation for convenience is available at [http://www.enac.gov.it/repository/ContentManagement/information/N1220929004/Reg%20SAPR%20English\\_022014.pdf](http://www.enac.gov.it/repository/ContentManagement/information/N1220929004/Reg%20SAPR%20English_022014.pdf)

3 Back in 2012 ENAC regulated the operation of drones for experimental purposes; this first set of rules had a very limited scope of application.