

UIHJ Webinar on statement of facts
05th October 2020

Statement of facts by drone and privacy Law

Marc Schmitz

President of the UIHJ





For mainly military use,
barely known a few years ago

NEW REALITY!



Photographs
Videos
Analyses of the environment
Deliveries of various goods
Toy version

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Toy version



Drone used by surveyor



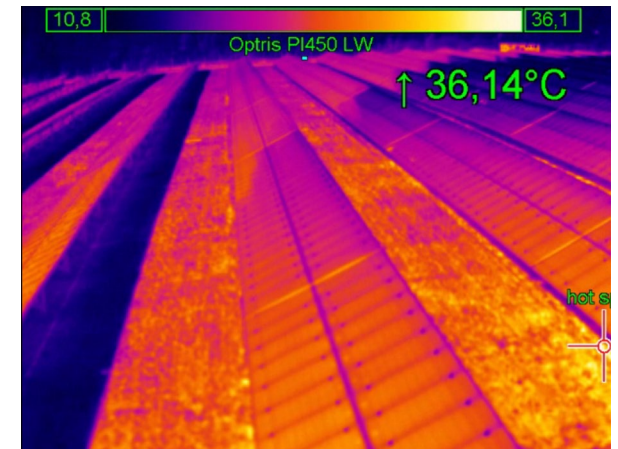
Real estate agencies



Aerial photos & videos



Delivery of goods



Thermal analysis

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DANGER FOR AIRPLANES AND HELICOPTERS



**AIR TRAFFIC RULES AND
REGULATIONS MUST BE
OBSERVED!**

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FOR JUDICIAL OFFICERS, THERE ARE TWO OPTIONS:

- **EITHER CALL ON A SPECIALIZED COMPANY TO BE ASSISTED BY A PROFESSIONAL DRONE PILOT DURING THE STATEMENT OF FACTS**
- **EITHER TRAIN AS A DRONE PILOT IN ORDER TO GET ALL THE NECESSARY KNOWLEDGE AND AUTHORIZATIONS TO TAKE OFF AND FLY A DRONE YOURSELF**



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The drone pilots' training

- So far, each country has its own legislation in this area
- Harmonized legislation on a EU-level from 01st January 2021

- Courses and a theoretical exam
- Training and a practical exam
- Different types of licences
- The type of licence defines
 - The height at which you can fly
 - The distance at which you can get close to people
 - The area in which you can take off





Registration and insurance of the drone

- The drone must be registered at the General Aviation authority like any other plane.
- The holding of a logbook is mandatory (pilote and drone)
- The drone must be insured





Important investment

- **On a financial level**
 - **Purchase of a semi-professionnel drone (minimum 1,500 to 2,000 €)**
 - **Training and exams (between 3,000 and 4,000 €)**
- **On a time level**
 - **Training**
 - **Regular, ongoing training**
 - **Preparation of missions**

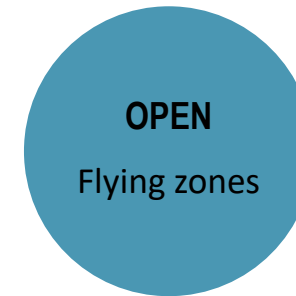




THE NEW EUROPEAN LEGISLATION FROM 01ST JANUARY 2021



Example: Belgium



Carte d'illustration – non officielle

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**OPEN
CATEGORY**

Low risk



**SPECIFIC
CATEGORY**

Increased risk



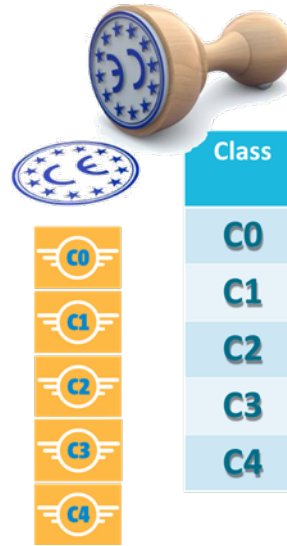
**CERTIFIED
CATEGORY**

Risk = manned aircraft

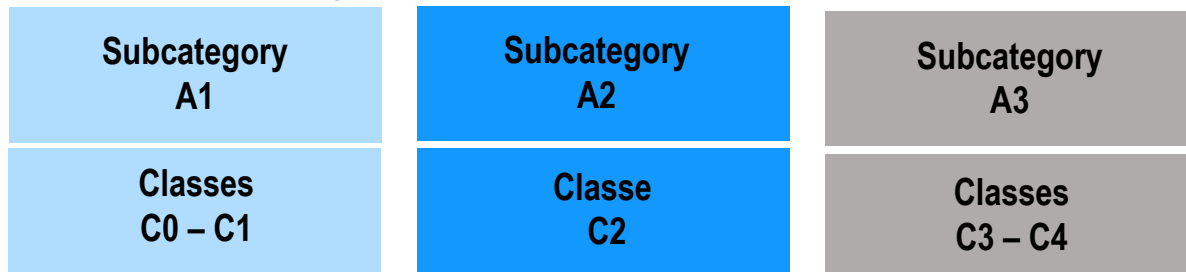
To be defined by EASA



OPEN CATEGORY - Low risk

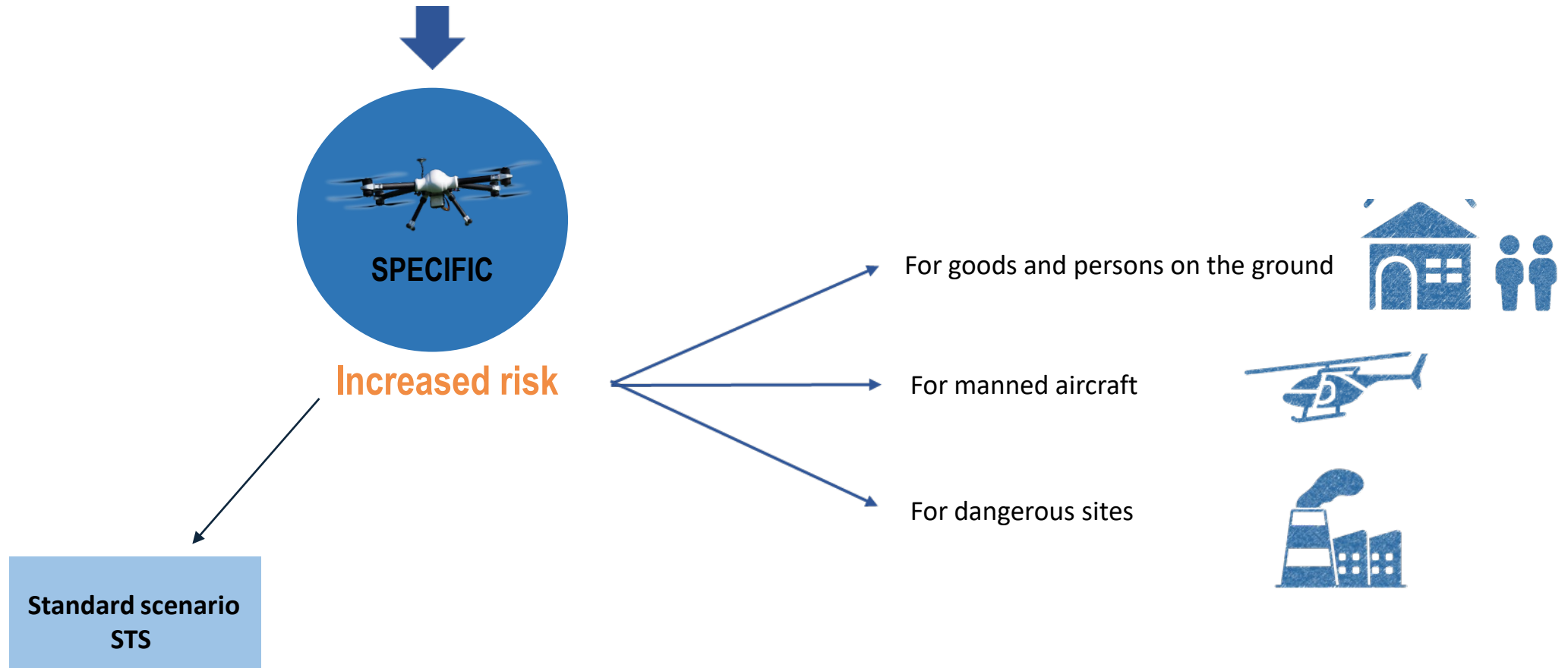


Class	Nickname	MTOM/J	Electronic ID/ Geo-awareness	OPERATOR Registration
C0	'Toy drone'	<250g	NO	No, if no camera
C1	'Hobby drone'	<900g or <80J at V _{term}	Yes	Yes
C2	'Prosumer drone'	<4kg	Yes	Yes
C3	'Professional'	<25kg	Yes	Yes
C4	'Aero-model'	<25kg	Yes	Yes





IF THE OPERATION EXCEEDS ONE OF THE LIMITATIONS DEFINED FOR THE OPEN CATEGORY





SPECIFIC

- Theoretical and practical training in an approved training center
- Theoretical and practical exam in an approved training center

Flights in SPECIFIC + OPEN zone – subcategory A1 – A2 – A3

OPEN A2

- **drone up to 4kg (C2):**

- Theoretical training and theoretical exam
- Obligation of a practical training declaration in accordance with national legislation.

Flights only in OPEN zone – subcategory A1 – A2 – A3

OPEN A1

- **drone less than 250g (C0) :**

- no training required

- **drone between 250gr and 900gr (C1):**

- online theoretical training and exam
- no practical training required

OPEN A3

- **drone up to 25kg (C3-C4):**

- online theoretical training and exam
- no practical training required

Flights only in OPEN zone – subcategory A1 & A3



THE RESPECT OF PRIVACY

Drone equipment:

- One or more cameras with zoom
- Storage or image sending capabilities
- Detection of « unusual » movements
- Cameras with a global view(360°)
- « Smart » cameras with face recognition
- Thermal imaging
- Radar or infrared technologies





THE RESPECT OF PRIVACY

The legal principles:

- Article 8 of the European Convention on Human Rights:

« Everyone has the right to respect for his private and family life, his home and his correspondence »

Horizontal application. It can be invoked by individuals among themselves, but also against any public administration

- National legal provisions (e.g. in Belgium, art. 22 of the Constitution)





THE RESPECT OF PRIVACY

Application of national legislation regulating the installation and use of surveillance cameras

- « Surveillance » strictly limited and in general reserved only for police forces
- Drones are little visible
- The use of drones is not very transparent
- The drone can easily exceed (sometimes even symbolic) limits that allow individuals to determine their private space.





THE RESPECT OF PRIVACY

- **Drones can collect a wide variety of information**
- **Capture of video or photo images**
- **Interception of communication signals**
- **Location and identification of objects / persons**
- **Record and tracking of movements**
- **No prior sorting of information**





In case of illicit use of a drone, the collected data must be considered illegal as well.

The drone must always be used legally and within the limits of aviation regulations, otherwise the obtained data will be illegal anyway!



The use of a drone in the context of statement of facts by judicial officer does not grant the latter additional rights.

Exactly the same rules as those for a standard statement of facts are applicable.

The drone is to be considered as an additional and effective tool that will allow to better document the statement of facts.

The drone can never be considered as a tool to get you into a place where you are normally denied of access.





WHAT ABOUT THE USE OF DRONES IN ENFORCEMENT PROCEEDINGS ????

- In most of the countries, exceptions and special rules have been issued for the use of drones by police, emergency services, customs, etc ...
- What about a legal framework for the use of a drone by judicial officers?
- We can only move forward in our profession if we constantly adapt by using new technologies at the max.





Many thanks to :



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Thank you very much for your attention!

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