



## OVERVIEW OF THE NEW AIRLINE CODE

### 1. General context

In the context of constant evolution of regulations in the aviation field at European level, Romania enacted Law no. 21/2020 regarding the New Airline Code on March 19, 2020 (“**New Airline Code**”). The New Airline Code is by far one of the most important national regulatory instruments, being designed as an integrated civil-military air code, flexible enough to allow the application or implementation of the present and future European regulations.

By enacting the New Airline Code, Romania seeks to establish which are the attributions of the authorities responsible for civil and military aviation, as well as the competences of other institutional bodies in the field of aviation safety and security. In addition, clear regulations regarding the national airspace have been implemented, as well as obligations related to the operation of unmanned aircrafts and environment protection in the field of civil aviation.

At last, the New Airline Code will officially come into force on June 19, 2020.

### 2. Authorities in charge of civil and military aviation

Among the changes brought by the New Airline Code, include the update in some of the Romanian authorities’ attributions in charge of managing the Romanian airframe. The legislative changes include the following:

- (i) updating the attributions of the Ministry of Transport, Infrastructure and Communications, as a specialized body of central public administration and of state authority in the field of civil aviation (e.g. the ability to issue specific regulations regarding the operation of civil aircrafts and parachute jumps by civil aeronautical personnel; the ability to ensure the certification of international / open to international traffic airports, etc.);

- (ii) outlining the duties of the Ministry of National Defense as a state authority in the field of military aviation;
- (iii) designation of the Romanian Civil Aviation Authority as a special authority through which the Ministry of Transport, Infrastructure and Communications can exercise a series of attributions in the field of aviation safety.

### **3. National airspace**

In respect to the national airspace, new obligations have been enacted for aircraft operators, such as compliance with the minimum and maximum flight height according to the category of aircraft used or obligations related to the knowledge of the technical-operational requirements and limitations issued by the Romanian and European authorities applicable to the flight and aircraft concerned.

Moreover, given the difficulties in identifying where an aircraft crashed and to facilitate the rescue of survivors of an aviation accident, starting with January 1, 2021 and if the European regulations do not stipulate otherwise, all the aircrafts operating in the national airspace are obliged to have on board a functional location device that will be activated in case of emergency. By way of exception, Romanian authorities may enact specific regulations for different types of aircrafts which can operate in the national airspace without having an emergency device.

In addition, for the purpose of controlling the use of national airspace, any aircraft flying in the national airspace must have onboard of the aircraft devices / equipment that allows to identify the position of the aircraft when in flight. Furthermore, interdictions regarding the flight of any aircraft over densely populated areas or gatherings of people organized outdoors at a height of less than 300 meters from any fixed obstacle within a radius of 600 meters from the aircraft have been enacted, with only a few exceptions.

### **4. New obligations related to aerodromes**

The New Airline Code enacts new obligations for the economic operators operating in the perimeter of an airport. In this regard, except for aircraft operators and air navigation service providers, any economic operator or authorized natural person operating within the perimeter of civil airports must hold a work permit within this perimeter, issued by the airport administrator.

On top of that, starting with the New Airline Code, competencies regarding the establishment of the tariffs for the use of the facilities and the provision of the services provided on a civil aerodrome are given to the aerodrome administrator. The same can also apply tariff reduction schemes, in certain situations and for certain economic operators, in compliance with competition law and state aid provisions.

## 5. Environment protection

The chapter regarding environment protection has been reanalyzed in order to be compliant with the European regulations in the field of civil and military aviation, therefore, provisions related to the so called “noise maps” have been enacted. In this regard, certain administrators of certified civil aerodromes have the obligation that, when developing aerodrome infrastructure development programs, to use noise mapping in order to predict the impact of future activities on aerodrome neighborhoods.

In addition, the administrator of each certified civil aerodrome, has the obligation to elaborate and implement an operational intervention plan to remove the contamination resulting in the perimeter of the aerodrome, as a result of aviation events involving dangerous substances transported or that will be transported by air. The plan is approved by the competent authorities in the field of environmental protection and public health, as well as by the National Commission for the Control of Nuclear Activity, in case of transport of radioactive materials.

## 6. Unmanned aircrafts

The New Airline Code creates the long-awaited legal framework for the operation in the national airspace of the unmanned aircrafts, commonly known as drones. The rule is that any provisions related to ordinary aircrafts shall also apply to unmanned aircrafts unless otherwise specified by the New Airline Code.

By way of exception, the following provisions of the New Airline Code are addressed specifically to unmanned aircrafts or unmanned aircrafts operators:

- (i) the operator of an unmanned aircraft has the obligation to cease the flight activity and bring the aircraft to the ground when observing the approach in the area of operation of an ordinary aircraft;
- (ii) the operation of unmanned aircrafts over the structures of the national defense, public order and national security system is strictly forbidden, except the: authorized flights on the route; aircrafts owned by the national defense; the situation in which there is a written agreement from the leaders of the respective structures or force majeure situations;
- (iii) exclusive areas for operating unmanned aircrafts or, as the case may be, prohibited areas may be established by the competent authorities; moreover, the Romanian authorities may establish, by specific regulations, categories and/or types of unmanned aircrafts that can operate in the national airspace without having the registration certificate normally required by the law;
- (iv) when required, the airworthiness certificate or the equivalent registration document must be obtained and permanently held upon the person who ensures

the remote control of the unmanned aircraft; the refusal of presenting such certificate to the competent authorities, upon request, may lead to fines between RON 8,000 and RON 16,000;

- (v) any natural or legal person that makes unmanned aircrafts available in any way to other persons (e.g. by sale, lease etc.) must inform these other persons, in written, about the applicability of the Airline Code to the operation of such devices in the Romanian airspace, as well as that failure to comply with the specific regulations regarding unmanned aircrafts operation may result in contravention, civil or criminal liability, as the case may be; failure to comply with the informing requirement is subject to fines between RON 8,000 and RON 16,000.

## **7. Aviation safety**

The New Airline Code provides that the national objectives concerning aviation safety, as well as specifically required or minimum acceptable safety levels shall be enacted by the Romanian Civil Aviation Authority by means of a National Civil Aviation Safety Program, subject to approval by the Ministry of Transport, Infrastructure and Communications.

Generally, the Romanian Civil Aviation Authority and the Romanian Military Aeronautical Authority take the responsibility of supervising compliance with aviation safety enactments.

Nevertheless, the Romanian Civil Aviation Authority is also authorized to temporarily restrict or prohibit general air traffic in national airspace when flight safety is in danger and its prerogatives in terms of aviation safety supervision are not to be censored by the Ministry of Transport, Infrastructure and Communications.

### **7.1. Certification**

The new enactment introduced certification requirements among certain civil aeronautical agents, which ensure one of the following activities:

- (i) repair of aircraft, engines, propellers, parts and associated equipment;
- (ii) the administration of civil aerodromes;
- (iii) air navigation services, as well as services related to the management of activities and the movement of aircraft and vehicles on the aerodrome platform;
- (iv) training of civil aeronautical personnel; or
- (v) the design of flight procedures.

Moreover, certification documents issued for the aeronautical agents mentioned above by the Member States of the European Union or by other states with which the European Union has concluded specific treaties, are automatically recognized in the territory of Romania, if so established by the applicable European regulations and/or by the treaties which Romania has signed. The same will be also applicable for certification documents issued with respect to aeronautical personnel.

In addition, powers were given to the Ministry of Transport and to the National Military Aeronautical Authority respectively, to establish categories of civilian and military aircraft that can fly without holding airworthiness certificates or equivalent documents, as well as parachutes that can be used without holding airworthiness documents.

## **7.2. Aeronautical easements**

The Romanian Civil Aviation Authority will also establish civil aeronautical easements related to certified civil aerodromes and equipment of civil air navigation services, as well as restrictions associated with these areas related to the construction regime, destination and land use.

The limits of the areas subject to aeronautical easements and the associated restrictions, which depend on the type of operations carried out on an aerodrome, the type of aircraft operated, the surfaces of aircraft movement or relief, are determined by the civil aerodrome administrators, the air navigation service equipment administrators or the Ministry of National Defense (in the case of military aerodromes), in accordance with the specific regulations and is integrated in the urban planning and spatial planning documentation.

Any urban intervention in these areas is subject to approval by the Romanian Civil Aviation Authority or, as the case may be, by the Ministry of National Defense. Local public administration authorities also have the obligation to monitor compliance with the restrictions associated with the areas subject to aeronautical easements.

## **7.3. Land and obstruction database**

The administrators of the certified civil aerodromes where instrument flight procedures are applied will have the obligation to provide land and obstruction databases in electronic format, in accordance with the recommended standards and practices set out in Annex no. 15 - Aeronautical information services at the Chicago Convention and with the applicable European regulations.

However, these obligations can be fulfilled by contracting specific service providers or by concluding arrangements with public authorities and institutions with responsibilities in the field of collecting and maintaining land and obstruction databases at national level.

On the other hand, the new regulations also impact natural and legal persons who perform constructions with a ground height greater than or equal to 45 meters. They will have the obligation to notify the Romanian Civil Aviation Authority regarding the nature of the construction, its height and coordinates, within 48 hours from the completion of construction.

#### **7.4. Responsibility transfer**

An important modification implies that Romania will now recognize the transfer agreements between the States Parties to the Chicago Convention, pursuant to Article 83 bis of the same.

#### **7.5. Search and rescue missions**

The search and rescue missions will be aimed at searching and rescuing all victims and survivors of an aviation accident, regardless of their nationality or registration of the aircraft and will be performed under a corresponding coordination system.

In addition, any Romanian air carrier will have to elaborate and implement an action plan containing measures to provide the assistance necessary to carry out the search and rescue operations, as well as immediate assistance measures to the victims of an aviation accident and their relatives, regardless of the place of accident. The assistance measures for the victims and their relatives must at least comprise special telephone lines, transportation to the accident location and psychological assistance; failure to adopt them will lead to fines between RON 300,000 and RON 400,000.

#### **7.6. Safety investigations**

Civil aviation safety investigations will be carried out by the Civil Aviation Safety Investigations and Analysis Authority. Such investigations are independent of the criminal, administrative and disciplinary investigations intended to establish blame or liability and are without prejudice to these procedures.

### **8. Sanctions**

Finally, the New Airline Code establishes sanctions of all kinds. Generally, if non-compliance with a regulation is endangering the safety of the aircraft in flight and/or is causing damage or injury to the rights or legitimate interests of a natural or legal person, the sentence is likely to be imprisonment.

\*\*\*\*\*

This article contains general information and should not be considered as legal advice.



**Andreea Dinu**

**Associate**

[andreea.dinu@mprpartners.com](mailto:andreea.dinu@mprpartners.com)



**Oana Săvulescu**

**Associate**

[oana.savulescu@mprpartners.com](mailto:oana.savulescu@mprpartners.com)