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Administrative and legal support of use Unmanned Aircraft in Ukraine

Today, unmanned aerial vehicles are rapidly developing, which actively integrates and arranges for the aviation system, defining its place alongside civilian and military aviation and dividing it with a single airspace. The administrative-legal provision of the use of an unmanned aircraft in Ukraine is problematic.

General theoretical questions of administrative-legal support in one way or another were studied by such scholars as V. B. Averyanov, IL Borodin, MA Boyarintseva, R.A. Kalyuzhnyj, V.K. Kolpakov, O.V. Kuzmenko O.V. Some problem issues, as well as the classification of unmanned aircraft in their work, were studied by Grebenikov AG, Myalitsa AK, Parfenyuk VV, Lutsky MG, Kharchenko VP, Fedorov SI, Hausov A B.V., Kramarenko T.M., Dolchik V.S. For example, the issue of the development of international regulation of remotely manned aviation systems is covered in the work of Bugaiko D.O., Professor Yun G.N. made an analysis and identified the benefits of the use of unmanned aerial vehicles in carrying out agricultural work.

VI Marchuk, under administrative and legal support of the established order of management, understands both the creation and support of conditions for the implementation of the requirements of the established procedure of management with the help of administrative legal means in the legal sphere. The structure of the mechanism of administrative-legal provision, he reflects as follows: 1) the rule of law (administrative law); 2) legal relations (administrative-legal relations); 3) principles of the mechanism of ensuring the order of management; 4) stages of management and their provision; 5) guarantees of the implementation of the management order; 6) acts of the application of the rules of law [1, p. 9].

Administrative provision should be considered in a broad and narrow sense. In the broad sense, administrative and legal support is the streamlining of public relations authorized by the state authorities, their legal consolidation through legal norms, protection, implementation and development. The narrow definition of administrative law will vary depending on what social relations will be discussed. The main elements of administrative and legal support should include: 1) the object of the ALS; 2) the subject of the ALS; 3) rules of law (norms of administrative law); 4) administrative-legal relations and their content; 5) guarantees, measures, means, forms and methods of administrative and legal support.

The legal regulation of the use of unmanned aerial vehicles is defined in the provisions of Article 8 of the Convention on International Civil Aviation (Doc 7300) and applies to all unmanned aerial vehicles, whether they are remotely manned, fully autonomous or combined, namely: "No airplane, capable of flying without a pilot, does not fly without a pilot over the territory of a Contracting State, except under a special permit of that State and in accordance with the terms of such permission. during the flight of such an aircraft without a pilot in areas open to civilian aircraft,

to ensure such control of this flight that would eliminate the danger to civilian aircraft "[2].

In Ukraine, the definition of an unmanned aircraft is provided by the legislator in the Air Code of Ukraine in paragraph 23 of Art. 1 as an aircraft designed to perform a flight without a pilot on board, the flight control of which is controlled by a special control station located outside the aircraft [3, p. 6].

Part 8 of Article 39 of the Air Code of Ukraine, paragraph 2.15 of section 2 of the Rules of registration of civil aircraft in Ukraine provides that in the State Register of Civil Aircraft of Ukraine registration of unmanned aerial vehicles whose maximum take-off weight does not exceed 20 kilograms and which are used for entertainments and sports activities [4, p. 330].

In general, at present, there are no special regulatory documents for UAV flights, certification, certification of operators, and integration into air traffic management. Within the legal framework, the use of an unmanned aerial vehicle is subject to the following regulatory acts: the Constitution of Ukraine; The Air Code of Ukraine; Decree of the President of Ukraine dated April 6, 2011 № 398 "On Approval of the Regulations on the State Aviation Service of Ukraine"; Order of the Cabinet of Ministers of Ukraine of April 14, 2004, №234 "On Approval of the Concept for the Development of the System for Regulating Aviation in the Field of Creation and Use of Small Aircraft", the Order of the Ministry of Infrastructure "On Approval of Aircraft Rules of Ukraine, Part 47" Rules for the Registration of Civil Aircraft in Ukraine ", Dated 25.10.2012, resolutions of the Cabinet of Ministers of Ukraine" Regulations on the use of airspace of Ukraine of March 29, 2002 N 40. Order of the State Aviation Service and the Ministry of Defense country from 11.05.2018 № 430/210 «On approval of the Aviation Regulations Ukraine" Rules for the use of airspace Ukraine»

For regulatory regulation of the use of unmanned vehicles, the following categories are defined:

1. Remotely manned aviation systems - systems containing: an aircraft operated by a pilot from a remote pilot station (for example on the ground or in a building); one or more associated remote control, command and control stations, and other components required for operation (for example, a jump-boom).

2. Unmanned autonomous systems are unmanned aviation systems that operate autonomously and run by computer without pilot intervention after take-off. Currently, they are prohibited, therefore, state authorities, including the EU, do not try to regulate their use, therefore the UAV are excluded from the field of legal regulation [5].

The difference in UAV is by size, performance and type. They can be almost invisible, like insects, or large, similar to manned planes. They can hang in the air or develop speeds up to 1000 km / h. Unmanned aerial vehicle control can be done using a smartphone, tablet or satellite software. They can be launched using missiles, catapults or manually and carry different types of materials, such as camcorders or fertilizers. Modern technology allows flying the UAV at considerable distances for a long time, but the vast majority does not rise more than 150 meters above the ground.

Such UAVs should be in the Register of Civil Aircraft of Ukraine. However, UAVs whose maximum take-off weight does not exceed 20 kilograms and which are used for entertainments and sports activities do not require registration. The competence of the State Aviation Service - the authorized body for civil aviation is the maintenance of the State Register of Civil Aircraft, determined by the order of the Ministry of Infrastructure of Ukraine dated 25.10.2012 No. 636 "On Approval of Aircraft Rules of Ukraine" in Part 47 "Rules for the Registration of Civil Aircraft in Ukraine".

Registration of an aircraft in the State Registry of Civil Aircraft of Ukraine determines its national affiliation with Ukraine and confirms that the competent civil aviation authority exercises control over the airworthiness and operation of this aircraft.

Like other civil aircraft, a registered UAV is prohibited from operating in certain areas, namely: protected (government buildings, industrial facilities), restricted access (military, border control, research stations, etc.) or reserved for other flying objects. Users interested in specific zones should send a request to the State Air Traffic Service Corporation of Ukraine.

Currently, in Ukraine, if UAVs weigh up to 20 kg, flights of such aircraft should be carried out within the limits of airspace restrictions / reservations. For this purpose it is necessary to apply with the letter in a free form to Ukraerocenter on the one-time application within 10 working days.

The administrative and legal provision of the use of unmanned aerial vehicles is carried out by authorized governing (State Aviation Service, Ministry of Defense of Ukraine, National Police of Ukraine, Security Service of Ukraine, State Border Guard Service of Ukraine, Ukrainian Airspace Management and Planning Centre) with the help of legal, organizational, technical and other complex measures, aimed at regulating legal relations with the use of unmanned aerial vehicles. The following are still important: 1) involvement in the process of regulating activities in the field of creation and use of unmanned aerial vehicles of non-governmental and public organizations, as well as individuals; 2) the division of responsibilities and functions for the control of safety of unmanned aerial vehicles operated for commercial purposes and the safety of flights of general purpose aircraft.

The administrative and legal provision of the use of unmanned aerial vehicles is confirmed by the following provisions: the specifics of the sphere of executive and regulatory activity, methods and means of legal regulation, which are used by state power authorities that authorize the use of a unmanned aircraft, determine the administrative and legal nature of the institution of use Unmanned aerial vehicles, as well as the social relations that are regulated by this institution, are relations between the public administration body stratify and applicants to use UAV. These legal relations have the character of public administrative and legal relations and are regulated mainly by the norms of procedural law.

Convinced that pressing issues remain the approval of the legislative and regulatory framework for the design, production, operation and certification of unmanned vehicles. For the administrative and legal ensuring of the safe use of unmanned aircraft, it is the creation of a system of training and certification of personnel engaged in the operation of unmanned aerial vehicles.

References

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