

AERONAUTICAL INFORMATION CIRCULAR

Belgium and Luxembourg

AIM Belgium
Control Tower
Tervuursesteenweg 303
1830 Steenokkerzeel
BELGIUM

FAX: +32 (0) 2 206 24 19

AFS: EBVAYOYX

Email: aip.production@belgocontrol.be

URL: www.belgocontrol.be

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Conditions for conducting GAT IFR flights in class G airspace in the Brussels FIR

1 Introduction

This AIC provides notification to Aircraft Operators, Airports and Air Navigation Service Providers concerning the conditions for conduction GAT IFR flights in Class G airspace in the Brussels FIR.

It also contains guidance material for the benefit of Aircraft Operators and other interested stakeholders, who wish to seek approval for such operations.

2 Background

It is a well-known fact that for several years IFR flights have been taking place in Class G airspace in the Brussels FIR. More recently, concern was raised by some stakeholders about the safety of such operations.

Neither ICAO Annex 2 - Rules of the Air, nor the SERA - Standardized European Rules of the Air contain provisions that would forbid such operations. However, they do not contain guidance about the conditions that should be applied to such operations. In the circumstances, it is up to the National Authorities to allow or prevent such operations and to develop any restrictions or conditions to be applied when conducting such operations.

A survey of the European aviation environment shows that the relevant practices applied in, for instance, the members of the European Union are far from uniform and range from bans to unconditional acceptance of such operations. Some States in which the practice is banned are in fact looking at ways of making such operations possible.

It is generally recognized that IFR flight in Class G airspace is a practice that represents important economic interests for both the aircraft operators and where applicable, the airports concerned as well.

This is definitely the case in Belgium as well.

In Belgium the practice has not been banned or expressly allowed as such. This reflects the somewhat unclear legal situation that is visible also in ICAO Annex 2 and the European SERA.

3 Actions undertaken

The Belgian CAA has examined the legal and operational implications of developing conditions for conducting GAT IFR flights in Class G airspace in the Brussels FIR that would make the operation safer while at the same time not adversely impacting the economic interests of the parties involved in such operations.

This action was conducted with the participation of experts from the field as well as aircraft operators and airports currently concerned with the practice in question.

4 Conclusion

The experts concluded that the practice of GAT IFR flight in Class G airspace was not inherently unsafe and there was no reason why the practice should be banned.

At the same time, it was agreed that such operations could represent a risk if pilots failed to adhere to the applicable rules of the air and corresponding local procedures.

It was therefore agreed that GAT IFR flight in Class G airspace in the Brussels FIR shall be allowed as follows:

- Such operations shall be subject to approval by the Belgian CAA, to be granted for operations in a given volume of airspace and for a given airport, as applicable;
- Approval shall be requested by submitting a request to the Belgian CAA, with the following minimum content:
 - Name, address and type of activity of the stakeholder(s)
 - Identification of the agreed representative stakeholder (if applicable)
 - Area (airspace, airport) which is concerned by the request
 - Type of operation being planned (commercial or non-commercial, aircraft types and aircraft equipment, aircraft operators, operating frequency, departure and destination aerodromes, alternate aerodromes if applicable, crew qualifications, etc.)
 - Planned start and end (if applicable) of the operations
 - Safety case with the required content
- The Belgian CAA will review the material and will respond in one of three ways within a period of 60 days:
 - Reject the request, giving a detailed explanation for the rejection;
 - Request additional details or explanations, giving a deadline for the delivery of such supplementary information;
 - Approve the request without or with conditions. In this case operations may begin on condition that all the mitigating measures, if any, in the safety case as well as the conditions imposed by the approving organization, are duly implemented. The approving organization will check regularly whether the conditions are still being met.
- If the request is rejected, the stakeholders may submit a new request that takes into account all the explanations that gave rise to the rejection of the original request. If this second submission is also rejected, stakeholders may submit a third version. Should this also be rejected, the stakeholder(s) concerned are blocked from submitting a new version for a period of 365 days counted from the date of the third rejection.
- If additional information is requested and the information is submitted within the prescribed deadline, a decision of rejection or approval will be made within 60 days of the submission of the additional material. If stakeholders fail to submit the requested additional information within the deadline stipulated, the original request will be cancelled by the approving organization which will also inform the stakeholder(s) of the action taken.
- In case of cancellation, the stakeholders may resubmit their request, now containing the originally requested additional material also, at their convenience. Cancellation does not affect stakeholder(s)' right for three consecutive submissions in case one or two are rejected.
- In cases where the request impacts airspace in which air traffic services are provided by Belgian Defense, the Belgian CAA will seek the binding advice of Belgian Defense before making a determination. In such cases the reply deadline is 90 days. The Belgian CAA shall inform the stakeholders when this is the case.
- The Belgian CAA shall inform Belgian Defense of all approved GAT IFR operations in Class G airspace.

The above procedures are mandatory as of 13 September 2018. Operations already existing on this date are granted an exemption until 03 January 2019 to supply the required documentation. Existing operations may continue until such time as a definitive approval or rejection is issued by the Belgian CAA. These dates are contingent upon the resolution of the issues raised by the EC.

5 Guidance material (see Annex A)

The attached Guidance Material has been developed to help stakeholders in preparing and submitting their requests ensuring a high degree of success.

AIC 019/2017 is hereby cancelled.

Annex A

Guidance Material for Conducting GAT IFR flights in Class G airspace in the Brussels FIR

1 Introduction

The following guidance material has been developed by the Belgian CAA to provide useful information and guidance to aircraft and aerodrome operators and other organizations and persons with a substantive interest in conducting GAT IFR flights in Class G airspace in the Brussels FIR. The guidance is based on the applicable rules and provisions as well as known best practices in the European context.

This guidance material is for information only. Stakeholders are encouraged to follow this guidance closely as this is a prerequisite for a successful application for operating GAT IFR flights in Class G airspace in the Brussels FIR.

2 Applicable rules and provisions

Notwithstanding the guidance contained in this document, pilots shall at all times observe and act in accordance with the applicable provisions contained in the SERA - Standardized European Rules of the Air.

3 The process of approval of the requests for GAT IFR operations in Class G Airspace

The process of requesting approval for GAT IFR operations in Class G airspace is the same irrespective of who the requesting party is. The requesting party may be an aircraft operator, an aerodrome operator or a natural person, or any combination of them. It is recommended that the following steps are undertaken in order to create and submit a request for such operations:

- The stakeholder with the most immediate requirement for such operations should analyse the operating environment and identify eventual other stakeholders who may share the requirement or are otherwise impacted by the planned operations;
- The initiating stakeholder should get the co-operation of the other stakeholders concerned to co-ordinate the requirements and to try to generate a common requirement document;
- The stakeholders concerned should agree in writing who their appointed representative shall be in all exchanges with the approving organization. If only one stakeholder is involved, this will automatically be the representative for the request. If and when the approval for the operations is issued, this will apply to all stakeholders that were party to the original request.
- The stakeholder(s) should develop an approval request document, with the following minimum content:
 - Name, address and type of activity of the stakeholder(s)
 - Identification of the agreed representative stakeholder (if applicable)
 - Area (airspace, airport) which is concerned by the request
 - Type of operation being planned (commercial or non-commercial, aircraft types and aircraft equipment, aircraft operators, operating frequency, departure and destination aerodromes, alternate aerodromes if applicable, crew qualifications, etc.)
 - Planned start and end (if applicable) of the operations
 - Safety case with the required content (see para. 4 below)
- The approval request document should be submitted electronically to the Belgian CAA, for the attention of Head of A-SPA, at the following address: CivilAir@mobilit.fgov.be, acting as the approving organization, in Adobe pdf format by the representative stakeholder, duly signed electronically.
- The approving organization will review the material and will respond in one of three ways within a period of 60 days:
 - Reject the request, giving a detailed explanation for the rejection;
 - Request additional details or explanations, giving a deadline for the delivery of such supplementary information;
 - Approve the request without or with conditions. In this case operations may begin on condition that all the mitigating measures, if any, in the safety case as well as the conditions imposed by the approving organization, are duly implemented. The approving organization will check regularly whether the conditions are still being met.
- In cases where the request impacts airspace in which air traffic services are provided by Belgian Defense, the approving organization will seek the binding advice of Belgian Defense before making a determination. In such cases the reply deadline is 90 days. The approving organization shall inform the representative of the requesting organizations when this is the case.

- If the request is rejected, the stakeholders may submit a new request that takes into account all the explanations that gave rise to the rejection of the original request. If this second submission is also rejected, stakeholders may submit a third version. Should this also be rejected, the stakeholder(s) concerned are blocked from submitting a new version for a period of 365 days counted from the date of the third rejection.
- If additional information is requested and the information is submitted within the prescribed deadline, a decision of rejection or approval will be made within 60 days of the submission of the additional material. If stakeholders fail to submit the requested additional information within the deadline stipulated, the original request will be cancelled by the approving organization which will also inform the stakeholder(s) of the action taken.
- In case of cancellation, the stakeholders may resubmit their request, now containing the originally requested additional material also, at their convenience. Cancellation does not affect stakeholder(s)' right for three consecutive submissions in case one or two are rejected.
- The Belgian CAA shall inform Belgian Defense of all approved GAT IFR operations in Class G airspace.

4 Development of the safety case

4.1 Why do we need a safety case?

The international aviation community has different views on the safety of GAT IFR operations in Class G airspace. Some States ban this practice, others require a safety case and in some cases the regulator simply ignores the practice which is otherwise allowed by the applicable ICAO provisions.

After careful consideration of all aspects of this issue, the Belgian CAA concluded that there were no grounds for banning the practice, however, it was necessary to implement provisions that demonstrate on a case by case basis that the planned operation is safe and the pilots concerned are familiar with the risks associated with such operations.

4.2 Who is responsible for initiating the safety case development?

The development of the safety case may be initiated by any party with a substantive interest in the operations concerned. As in most cases commercial interests drive such operations, the party with the highest interest is typically the one who takes the initiative but this is not a requirement as such. An airport wishing to provide better service to its users may be the initiator while one or several aircraft operators may also act as the initiators. A combination of both is also possible. There must, however, always be an agreed representative of the stakeholders if there are more than one.

4.3 Who should bear the costs?

The processing and evaluation of the request is done by the CAA at no charge to the applicant(s). The costs associated with the development of the safety case, preparation and submission of the request and the eventual updating and resubmission of the safety case is to be covered by the applicant(s). No claim whatsoever may be made against the Belgian CAA on the basis of additional costs that may arise as a result of the rejection of the safety case.

4.4 Accepted safety cases are in the public domain.

The safety cases accepted by the Belgian CAA become public property and will be made available to applicants asking for it. This is done in order to facilitate later applications and to provide a basis for the re-usability clause below. This practice is seen as a service to the community and is not substantially different from cases where an aircraft operator supports and/or subsidizes the implementation of a given approach aid which will then be used also by others, essentially getting a free ride.

4.5 Selecting the organization to develop the safety case

Stakeholders should select the organization that will develop the safety case with due diligence and care. The Belgian CAA does not recommend, qualify, accredit or otherwise distinguish any vendor, domestic or international. Nevertheless, we do recommend that applicant give preference to vendors who have been accredited by the CAA of another State, who are known to have completed similar safety case development tasks and have a good reputation and who are familiar with the Brussels FIR. The Belgian CAA will not approve or reject safety cases on the basis of who produced them and will judge the products purely on their merit as represented by the quality of the content.

4.6 Stakeholders to be involved in developing the safety case

Applicants must ensure that the safety case development involves the airport(s) and aircraft operator(s) concerned. Belgocontrol should also be involved in an advisory capacity. Special care is advised when the proposed procedures impact airspace in which air traffic services are provided by Belgian Defense. Obtaining their advance views on the proposal can greatly facilitate the decision making process.

4.7 Taking credit for new operations on the basis of an existing safety case

4.7.1 The meaning of “identical type of operation”

Identical type of operation is defined as meaning an aircraft operation conducted by an aircraft of the same category as that of an already approved application, flying an identical flight profile under the command of identically trained and licensed pilots. New operations may use an existing safety case and the related restrictions if any, to operate flights which fall under the identical type of operation concept as defined above. Such operations still need to submit a request, with proof of the identical type of operation, but other than that, they can simply refer to an existing safety case and confirm that they are familiar with the related restrictions.

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