

# Air transport: allocation of slots at Community airports

2009/0042(COD) - 10/03/2009 - Legislative proposal

**PURPOSE:** to allocate slots for air carriers for summer 2010 scheduling season and amend Regulation (EEC) No 95/93.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**BACKGROUND:** the global economic and financial crisis is now seriously affecting the activities of air carriers. It has led to a significant reduction in air traffic over the winter 2008/09 scheduling season. The summer 2009 scheduling season will also be affected by the economic crisis. After 6 years of 3% average growth and zero growth in 2008, Eurocontrol is forecasting a 4.9% fall. More than 80% of European airports have seen a reduction in traffic (8% to 10% in passenger traffic and 25% to 30% in cargo traffic in January 2009), which means that the economic crisis is hitting the whole of the European air transport sector. The Commission takes the view that the current economic crisis and subsequent readjustments to services (suspension, reduction of frequencies) constitute exceptional circumstances that are having a negative impact on airline companies. Consequently, coordinators should interpret the provisions of Regulation (EEC) No 95/93 on the allocation of slots in such a way that airline companies do not risk losing the slots they fail to use because of the economic crisis ('use-it-or-lose-it' rule). Unless a decision is adopted to maintain the 'grandfather status' of slots, airlines might keep existing capacity in the face of significantly reduced demand, which would aggravate the current economic difficulties.

**IMPACT ASSESSMENT:** no impact assessment.

**CONTENT:** the point of reference for the Regulation is the allocation and utilisation of slots during one season ('use-it-or-lose-it' principle) and in particular the situation at the end of the season after the slots have actually been used. In particular, that Article stipulates that air carriers will not be entitled to the same series of slots in the next equivalent scheduling season, unless they can prove to the satisfaction of the coordinator that they have operated them, as cleared by the coordinator, for at least 80% of the time during the season for which they were allocated.

Furthermore the Regulation provides for calculation of usage at the end of the season, once slots have been operated, for the purpose of acquiring rights for the next equivalent scheduling season.

Article 10(4) gives a list of non-exhaustive reasons that can validly be used by air carriers to justify the non-utilisation of slots allocated during a scheduling season. The Regulation is based on the principle that the allocation and monitoring of the use of slots are the responsibility of the coordinator, who must not only carry out his duties in an independent manner but must also act in a neutral, non-discriminatory and transparent way. Therefore, neither the Commission nor any Member State may impose on coordinators any requirements that might undermine their independence.

Under these circumstances, there is a danger that Member States will interpret the Regulation differently, which would lead to a lack of consistency in the application of Article 10(4) within the Community. It is therefore proposed to insert a new Article 10c into the Regulation. This states that, for the purpose of Article 10(4), coordinators shall accept that air carriers are entitled to the same series of slots during the summer 2010 scheduling season as were allocated to them during the summer 2009 scheduling season in

accordance with the Regulation. The Commission shall continue to analyse the impact of the economic crisis on the air transport sector. Should the situation continue to deteriorate during the winter 2009/10 season, it may decide to renew all or part of these arrangements for the winter 2010/11 season.

Although the allocation of slots for the summer 2009 scheduling season was completed on 31 January 2009, amendment of the Regulation will still permit airline companies to adjust their activities and reduce existing capacity in order to comply with the 'use-it-or-lose-it' rule. Since the summer 2009 season begins on 29 March, the proposed rule should enter into force as soon as possible. Otherwise, there is a major risk of legal challenges from air carriers allocated slots at airports where coordinators did not accept the justification of exceptional circumstances caused by the economic crisis during the summer 2009 scheduling season.

**FINANCIAL IMPLICATIONS:** there are no financial implications for the Community budget.