

# Allocation of slots at EU airports

2011/0391(COD) - 12/12/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 565 votes to 69 with 26 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on common rules for the allocation of slots at EU airports (recast). Parliament's position in first reading following the ordinary legislative procedure amends the Commission proposal as follows:

**Definition of airport slots:** Parliament notes that the relevant theory and case law have not yet advanced sufficiently to produce an exhaustive legal definition of airport slots. As of now it is expedient to be able to work on the assumption that the use of slots in the public interest - hence not in any strict sense a public good - may serve as a guideline for a legal definition. It is therefore appropriate to formulate a definition of slots that establishes that they may become subject to rights and that governs the allocation of slots. Parliament adds that airport slots are non-material assets of public utility whose use is subject to the conditions laid down in this Regulation. They are therefore assigned by **airport coordinators** so as to ensure **maximum transparency**, in the interests of Member States, passengers, airport managers and air carriers.

**'Series of slots'** is amended to mean **at least five slots** which have been requested for the same time on the same day of the week regularly in the same scheduling period and allocated by the coordinator on that basis or, if that is not possible, allocated at approximately the same time, unless agreed otherwise through a local rule under the conditions referred to in the text. The Commission proposal had stated that 'series of slots' should mean at least 15 slots for a summer scheduling period and 10 slots for a winter scheduling period requested for the same time on the same day of the week for consecutive weeks.

**Coordinator's role:** Members strengthened provisions regarding the independence of the coordinator. The draft regulation states that in legal terms, the coordinator's essential functions, which consist of allocating slots in an equal and non-discriminatory manner, shall be given to a natural or legal person who or which is not a service provider in the airport, an airline operating from the airport or the managing body of the airport in question. Parliament adds that in order to prove that he/she/it does not share common interests with any such entities, the coordinator or schedules facilitator must submit an annual declaration of his/her/its financial interests. Furthermore, the composition of the coordinator's board or supervisory function shall also be independent of the direct interests of the airport managing body, the airline users of that airport and any other entity representing a user or service provider. This shall not, however preclude representatives of such organisations from being members of a board or supervisory function, provided that voting rights are balanced.

Members also add that:

- the coordinator or schedules facilitator, whether as a natural or legal person, must not have been employed by, or worked regularly with, the airport managing body or a service provider or airline operating at or from the airport in question during the two years preceding his/her/its appointment and during the two years from the cessation of his/her/its duties as a coordinator or schedules facilitator;
- the system of financing the coordinator's activities and those of the schedules facilitator shall be such as to guarantee the coordinator's independent status.

The financing referred to shall be provided by **all the air carriers** who operate in the coordinated and schedules facilitated airports, and by those airports in such a way as to **ensure that the financial burden is distributed equitably** among all interested parties and that the financing does not largely depend on a

sole interested party. Member States shall launch a stakeholder consultation procedure, incorporating the possibility of an appeal, in order to ensure transparent, non-discriminatory charging correlating to the service provided by the coordinator or schedules facilitator. Collection of the air carriers' payments shall be the responsibility of the airports concerned, which shall pay those amounts to the coordinator or schedules facilitator. Member States shall ensure that **adequate financial, human, technical and material resources and expertise** are at the disposal of the coordinator and the schedules facilitator, such as to enable them to carry out their duties at all times.

The coordinator and the schedules facilitator shall furthermore submit to the Commission, to the Member States and to all parties involved in their financing a **separate annual financial report indicating in detail revenue and expenditure relating to their activities**.

The **electronic database** for which the coordinator is responsible shall be freely accessible for all interested parties upon request, including the European Parliament, and contain the information prescribed in the text.

**Local rules:** Members specify that local rules shall concern the allocation and monitoring of slots and **may be applied only where it can be proved that an airport reaches an alarming level of congestion** and that performance or throughput improvements can therefore be delivered through locally applied rules. Such local rules shall be transparent and non-discriminatory, and shall be agreed on in the coordination committee. The Commission proposal had specified instead that the local guidelines might only concern the monitoring of the use of slots allocated or the amendment of the definition of a series of slots to reduce its length below 10 slots for the winter scheduling period or below 15 slots for the summer scheduling period, but under no circumstances below 5 slots.

**Usage rate:** under the Commission's proposal on airport slot allocation, a slot would be taken away from an airline if it is used less than 85% of the time. The current threshold is 80%. However, Parliament rejected the proposal to raise the slot series usage rate to 85% and maintains in the text an **80-20 ratio for series usage rates**.

Members add that slots shall be returned to the pool when they are not being used after the expiry of a **maximum period of six months**. When a route no longer meets the requirement for Public Service Obligations slots reservation, the slots shall either be reserved for another route subject to public service obligations or shall remain with the air carrier which was using them if the requirement laid down in the Regulation has been met for the series concerned.

**Financial sanctions:** rather than using general fees, Members specify that the managing body of a coordinated airport must establish and apply **effective, proportionate and dissuasive financial sanctions** to deal with the return of slots after the agreed Historic Baseline Dates for the following winter or summer season, respectively, or the retention of unused slots with the aim of dissuading air carriers from belatedly returning slots to the pool, and must hold them liable for having reserved airport infrastructure without using it. The new text sets out a series of principles that must be respected in laying down sanctions. Members stipulate that the system of sanctions shall be **revenue-neutral for the airport managing body** and shall be aimed solely at increasing the efficiency of time slot allocation.

These sanctions must be in place not later than **one year** after the adoption of the Regulation. Member States shall duly inform the Commission, which shall assess the effectiveness of the sanctions in question.

Where a financial sanction is necessary, it **shall apply to each individual failure by an air carrier to comply with the relevant provisions, and shall have a pre-determined minimum value**, to be set by the Member State concerned. Multiple infringements may give rise to the imposition of a series of

financial sanctions and may result in, for example, the doubling of the financial penalty for each further infringement. The coordinator shall be duly informed of the imposition of penalties. Decisions to impose financial sanctions shall be published by the coordinator.

**Revenue from slots trading:** Parliament specifies that Member States may adopt measures to **allocate a portion of the revenue generated from the slots trading to a fund in order to cover the costs of developing airport infrastructure and optimising related services**. In the interests of complete transparency, the fund in question shall be determined and approved by an independent supervisory authority as referred to in Directive 2009/12/EC. The fund must at all times be managed in such a way as to ensure that the principles of separate accounting are followed, so that the financial amounts to be allocated from the fund to each airport can be established. The revenues generated from the slot trading at one airport shall be reinvested at the same airport.

**Monitoring of secondary trading:** Parliament approves the Commission's view that the allocation and use of slots could be made more effective by introducing slot exchange mechanisms, by ensuring that the unused slots are made available to interested operators as soon as possible and in a transparent manner, and by reinforcing the underlying principles of the system with regard to the allocation, management and use of the slots. In addition, it is important that access to hub airports from regional airports be maintained where such routes are essential to the economy of the region in question. Therefore, concerns regarding efficient allocation of slots must continue to be balanced against the need to protect the external benefits of air transport services and in particular the value that they create for European regions.

Lastly, Parliament adds that the Commission shall monitor the secondary markets for slots based on the data received from co-ordinators and shall report on relevant trends, including those relating to regional and intra-Union connectivity, in its Annual Analysis of Air Transport Markets.