

EUROPEAN PARLIAMENT

2004



2009

Session document

A6-0274/2009

24.4.2009

*****I** **REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports
(COM(2009)0121 – C6-0097/2009 – 2009/0042(COD))

Committee on Transport and Tourism

Rapporteur: Paolo Costa

(Simplified procedure - rule 43 (2) and (3) of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	6
PROCEDURE.....	6

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on amending Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports
(COM(2009)0121 – C6-0097/2009 – 2009/0042(COD))**

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0121),
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0097/2009),
 - having regard to Rules 51 and 43(2) and (3) of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0274/2009),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and to the Commission.

Amendment 1

Proposal for a regulation – amending act

Recital 2

Text proposed by the Commission

(2) In order to ensure that the non-utilisation of slots allocated for the summer 2009 season does not cause air carriers to lose their entitlement to those slots, it is necessary to specify clearly and unambiguously that the season is affected by the economic crisis.

Amendment

(2) In order to ensure that the non-utilisation of slots allocated for the summer 2009 season does not cause air carriers to lose **automatically** their entitlement to those slots, it is necessary to specify clearly and unambiguously that the season is affected by the economic crisis. (

The Commission will 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*, the Commission may *decide* to renew all or part of these arrangements for the winter 2010/11 season.

(2a) The Commission will continue to analyse the impact of the economic crisis on the air transport sector. Should the situation continue to deteriorate *prior to* the winter 2009/10 *scheduling period*, the Commission may *propose* to renew all or part of these arrangements for the winter 2010/11 season. *Such a proposal should be made only if it forms part of a proposal for a general revision of Regulation (EEC) No 95/93.*

Amendment 2

Proposal for a regulation – amending act

Article 1

Regulation (EEC) No 95/93

Article 10c

Text proposed by the Commission

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, in accordance with the procedure referred to in Article 13(2)*, to renew all or part of these arrangements for the winter 2010/11 season.

Amendment

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 *propose* to renew all or part of these arrangements for the winter 2010/11 season.

EXPLANATORY STATEMENT

The Commission proposal

The Commission on 10 March 2009 adopted a proposal to amend, as a matter of urgency, Regulation 95/93 on the allocation of airport slots. In concrete terms, the Commission proposes to temporarily suspend, in view of the economic crisis, the "use-it-or-loose-it" rule, which stipulates that airlines lose "grandfathered" slots to which they have been historically entitled, if they fail to use them for at least 80% of the time.

The Commission stresses that the economic crisis has led to sharp declines in passenger and freight transport demand, which has had a negative impact on airline companies. The Commission argues that under these exceptional circumstances, airlines should not be forced to operate half-empty airplanes in order to retain their slots, for both economic and environmental reasons. The 80/20 rule was already suspended temporarily twice, namely, following the terrorist attacks in 2001 and the outbreak of SARS in 2003, which led to comparable declines in air transport demand.

The suspension proposed by the Commission this time would only apply to the allocation of slots for the summer season 2010. In other words, airlines would maintain their historic slots in summer 2010 even if they used them less than 80% of the time in 2009. However, the Commission proposes a provision allowing it to extend this measure by comitology (ordinary regulatory procedure) to the following winter season.

Procedure

Given the late submission of the proposal by the Commission and time constraints inherent in its provisions, the decision-making process must be quick. Consequently, the Committee's coordinators decided to apply the simplified procedure in accordance with Rule 43(2) of Parliament's Rules of Procedure.

Thus, following discussions in Committee on 31 March, the chairman as rapporteur will propose a draft legislative resolution with amendment(s), reflecting the outcome of the debate and send them to Members on 31 March. Subsequently a time limit of 21 days is set during which Members can object. The deadline will thus expire on 21 April.

Unless at least 1/10 of the Committee Members (6 Members) object, the report is deemed to be approved by the Committee and goes directly to plenary, where it is put to the vote without debate. However, if at least 1/10 object, it will be subject to a vote at an extraordinary Committee meeting, which would be held on 22 April in Strasbourg.

In parallel to the steps outlined above, the Chairman will pursue informal contacts with the Council in order to find an agreement in first reading. The text of such an agreement would be reflected through plenary amendments. The report is scheduled for the May plenary session.

Stakeholders' views

The rapporteur held a series of meetings with major stakeholders. These meetings revealed

that what appeared to be a straightforward and uncontroversial proposal at first sight, is in fact highly complex and contentious. Hence, different stakeholders had widely diverging views on the proposed measure. In a nutshell, network airlines were strongly in favour, while representatives of airports and low cost carriers voiced serious concerns. Their main arguments were as follows:

Representatives of network airlines stressed that the suspension of the 80/20 rule was absolutely necessary in light of the sharp drop in demand. Airlines should be allowed to trim the resulting overcapacity without losing their slots. In other words, airlines should not be forced to maintain operations at an uneconomical level in order to protect the slots. They argue that it is important, not least for consumers, to maintain the flight network, which should still be in place once the economic recovery starts and which other than network airlines would not be able to provide. In the meantime, the Regulation would allow unused slots to be allocated temporarily and on an ad-hoc basis to other airlines. Representatives emphasised that the proposal would also prevent European airlines, for which there have been no bail-outs, from losing slots to major competitors in China, India and Japan, who did benefit from substantial state aids.

Representatives of European airports took an entirely different view. They emphasised that there are long waiting lists for airlines willing to take up slots at all major airports in Europe. Hence, the proposed measure would allow legacy carriers to retain unused slots, for which there is demand from other airlines, thereby preventing airports from using scarce capacity in the most efficient way. The resulting costs for airports (in terms of foregone revenue) would effectively represent a cross-subsidy from major airports to few network airlines, in a situation where airports already suffer due to the economic crisis. Furthermore, it was pointed out that the proposed measure will lead primarily to a reduction in flights between hubs and regional airports with negative impact on the regions and the mobility of their inhabitants. Finally, European airports believe that the proposed measure is highly anti-competitive as it creates a barrier for efficient airlines to enter the market, thus hindering a timely re-structuring of the sector and depriving consumers of more choice and more competitive services.

Representatives of low-cost carriers largely agreed with the arguments put forward by European airports. While they confirmed that the industry as a whole is currently under significant pressure, they stressed that low cost airlines have been less affected by the crisis than network carriers. Many of the low-cost airlines are still profitable, continue to grow and would like to increase their slots at the major airports. They claim that by allowing network airlines to hoard slots without using them, the Commission proposal distorts competition. According to them, this will lead to fewer flights and higher ticket prices than there would otherwise have been.

Rapporteur's assessment

Without doubt, the economic crisis has had a negative impact on the airline industry. This is one of the few points, on which there seems to be consensus among stakeholders. The figures put forward indicate around 5% decrease in passenger and 15% decrease in freight traffic for 2009 as compared to 2008. The impact of the economic crisis on air transport is worse than that of the terrorist attacks in 2001 or the outbreak of SARS in 2003, when the 80/20 rule was first temporarily suspended.

However, today's situation is different than in 2001 and 2003. Firstly, contrary to the effects of the terrorist attacks and SARS, the crisis is not aviation specific but affects all parts of the economy on a global scale. Secondly, the crisis is not linked to a single event and while a recovery was foreseeable after the 2001 and 2003 events, the further development and duration of the present crisis is beyond predictability.

In light of the above, your rapporteur is not prepared to accept a provision, which would allow the Commission to prolong the temporary measures by comitology to the following winter season. Instead, the situation should be monitored to gain more insight into the nature of the crisis and its impact by fall, which will allow the Commission to come forward, if appropriate, with a new proposal that may include entirely different instruments than the ones currently foreseen. This new proposal will subsequently be examined by the newly elected Parliament and amended, if necessary.

As regards the proposed measure itself, a number of factors should be considered in order to find a balanced solution, which takes into account not only the concerns of all the major stakeholders but also the interest of passengers. Firstly, such a solution must not lead to a redistribution of costs and benefits between the different aviation sectors, but rather address the problems experienced by the air transport industry as a whole. For this reason, a complete suspension of the "use-it-or-loose-it" rule in a situation, where there is still demand for slots at major airports is not appropriate, as it puts legacy carriers at an advantage at the expense of airports who lose revenue, other airlines who are prevented from competing for historic slots and passengers who would have to cope with fewer flights at higher prices. Airlines should only be entitled to retain unused slots if there is no demand for that slot from another carrier.

On the other hand, the concerns of network airlines must be addressed. In order to make future profits once the economic recovery starts, they must 'invest' today by continuing to operate currently unprofitable slots to retain them. While this may make sense economically for the airline holding the slots, it is questionable from an environmental point of view as half-empty planes are emitting greenhouse gases. Against this background, but also in order to provide for a certain relief to airlines who are facing difficult economic circumstances, it is suggested to adjust the 80/20 rule by taking into account drops in demand. Thus, the 80% threshold should be lowered in accordance with the decrease in passenger demand (currently estimated at 5%) to 75%.

From the point of view of passengers, another element should be taken into account, when considering the Commission proposal, namely the need to protect the flight network serving regional airports, which connect Europe's regions to the economic centres. Therefore your rapporteur suggests to introduce a provision whereby airlines who are able to take advantage of the slots surrendered under the use-it-or-loose-it rule (with lower threshold) must undertake to serve the same market for at least two seasons. In other words, where an airport slot is not operated on at least 75% of occasions, it would only go back to the pool, if no carrier, including the incumbent, is willing to take it and operate it to the same destination for at least two corresponding scheduling periods.

Finally, your rapporteur believes that the Regulation on slot allocation requires a general overhaul in the near future, which addresses, among other things, competition issues as well

as questions of slot ownership, trading etc. The present temporary measures could be used to test certain innovative elements, which could later be included permanently as part of a general revision. In this context, it may, for instance be proposed to re-allocate the unused slots by way of auction as far as the summer season 2010 is concerned. The introduction of market instruments such as this should, in the long run, lead to a much more efficient use of scarce airport capacity.

PROCEDURE

Title	Common rules for the allocation of slots at Community airports
References	COM(2009)0121 – C6-0097/2009 – 2009/0042(COD)
Date submitted to Parliament	10.3.2009
Committee responsible Date announced in plenary	TRAN 24.3.2009
Rapporteur(s) Date appointed	Paolo Costa 16.3.2009
Simplified procedure - date of decision	16.3.2009
Discussed in committee	31.3.2009
Date adopted	22.4.2009
Result of final vote	+: 38 -: 4 0: 1
Members present for the final vote	Gabriele Albertini, Etelka Barsi-Pataky, Erminio Enzo Boso, Paolo Costa, Michael Cramer, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Emanuel Jardim Fernandes, Francesco Ferrari, Brigitte Fouré, Luis de Grandes Pascual, Stanisław Jałowiecki, Georg Jarzembowski, Timothy Kirkhope, Dieter-Lebrecht Koch, Sepp Kusstatscher, Jörg Leichtfried, Eva Lichtenberger, Antonio López-Istúriz White, Erik Meijer, Josu Ortuondo Larrea, Reinhard Rack, Ulrike Rodust, Gilles Savary, Brian Simpson, Dirk Sterckx, Ulrich Stockmann, Michel Teychenné, Silvia-Adriana Țicău, Georgios Toussas, Yannick Vaugrenard, Armando Veneto, Lars Wohlin, Roberts Zile.
Substitute(s) present for the final vote	Johannes Blokland, Zsolt László Becsey, Nathalie Griesbeck, Lily Jacobs, Elisabeth Jeggle, Rosa Miguélez Ramos, Dominique Vlasto.
Substitute(s) under Rule 178(2) present for the final vote	Francesco Enrico Speroni,.