



# OPINION

European Economic and Social Committee

## Temporary airport slot relief due to COVID-19

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[COM(2022) 334 final]

TEN/787

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Referral	European Commission, 12/07/2022 European Parliament, 19/07/2022 Council, 04/08/2022
Legal basis	Article 100(2) and Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted at plenary	21/09/2022
Plenary session No	572
Outcome of vote (for/against/abstentions)	143/1/2

## 1. Conclusions and recommendations

- 1.1 The EESC notes that aviation provides intra-EU and international connectivity, which is an essential prerequisite for trade and tourism, and therefore also for European economic prosperity. The aviation sector is still reeling under the combined effects of several global crises, such as the COVID-19 pandemic, the airspace closure of several European trading partners (notably China), the ongoing war in Ukraine, soaring inflation, the increasing probability of a global recession and the lack of labour forces in several economic sectors, not least in aviation itself. Other regions of the world are carefully monitoring how European aviation manages these challenges. Neighbouring hubs in Istanbul, Dubai, Doha and London will benefit from the stifled competitiveness of European hubs and European international network carriers. The EESC has therefore consistently maintained that any and all regulatory measures affecting aviation must not affect Europe's international competitiveness. It would be damaging for the environment and for the labour forces employed in Europe for passenger flows to be re-routed away from international connections in Europe and flown to international destinations via non-EU hubs. The proposed amendments to the Slot Regulation must also be seen in this broader context.
- 1.2 Regulation (EEC) No 95/93<sup>1</sup> determines the procedures and rules for the allocation of slots at EU airports. Article 10 of this Regulation specifies that air carriers must use at least 80% of their allocated slots within a given scheduling period to maintain them for the corresponding scheduling period of the following year (Slot Regulation).
- 1.3 In light of the unexpected scope and duration of the pandemic, the Commission has modified the Slot Regulation twice since its outbreak to effectively suspend the use-it-or-lose-it provision, and to grant the Commission delegated powers to cater for unexpected further developments. These slot relief measures will expire on 29 October 2022, with the Commission's delegated powers having already expired on 21 February 2022. A further review and additional adjustments are now required as a matter of urgency to reflect market reality.
- 1.4 Based on EUROCONTROL forecasts, the Commission assumes that the aviation market will gradually recover to pre-pandemic levels, however this assumption could be unduly optimistic<sup>2</sup>. The EESC believes that the proposal, whilst well intended, lacks the necessary safeguards to avoid unintended setbacks for Europe's competitiveness.
- 1.5 The EESC welcomes the thrust of this new Commission proposal to maintain as much competitiveness in the aviation market as possible. However, the Commission's market analysis, as well as its forecasted market development in the coming three seasons, are not sufficiently robust to explain or even justify the suggested return to the 80:20 rule. The EESC does not share the Commission's reasoning that the aviation market is returning to 'normal'. In light of the Commission's data, a lower threshold, such as 70:30 for example, would be more appropriate until the market stabilises.

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<sup>1</sup> Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports, [OJ L 14, 22.1.1993, p. 1](#).

<sup>2</sup> Publication of German airline Lufthansa's intention to further reduce capacity in view of the ongoing crisis: <https://www.airliners.de/lufthansa-streicht-winterflugplan/65956>.

- 1.6 The EESC welcomes the Commission's proposal to extend the scope of justified non-use of slots (JNUS) to also cover political unrest and natural disasters if these circumstances lead to clearly described restrictions on aviation. However, the EESC is not convinced the proposed modifications to the current JNUS are warranted. The procedures envisaged by the Commission add an unnecessary level of complexity. In fact, the deviations from the current procedures can no longer be qualified as emergency measures, and thus create legal uncertainties at a time when the entire sector is in dire need of a stable regulatory framework.
- 1.7 The EESC supports the proposal to enhance the transparency of slot allocation by strengthening the role of the European Airport Coordinators Association, and by introducing an obligation for coordinators to publish the destinations to which the exceptions apply.
- 1.8 The EESC welcomes the proposed measures to mitigate the ongoing and foreseeable effects of the Russian military aggression in Ukraine on European aviation. However, the Commission's assumptions that normal provisions can be implemented four months after the end of hostilities appears unduly optimistic.
- 1.9 Notwithstanding the EESC's full support of the Commission's intentions, the EESC believes that despite the evident time constraints, an impact assessment (IA) would have been warranted to better assess the implications of the proposed changes to the existing Slot Regulation. In the absence of such substantiation through an IA, the Commission relies on EUROCONTROL forecasts which do not necessarily reflect the complexity of current market developments.
- 1.10 An IA is not only necessary to justify changes to the existing Slot Regulation. As the EESC has already pointed out<sup>3</sup>, EU measures should be closely coordinated with the Worldwide Airport Slot Board (WASB) to avoid different approaches to the same issue in different regions of the world.
- 1.11 The ongoing global crises must be seen in the context of their cumulative effect on international aviation. Given the difficulties in containing these effects for the time being, the EESC believes that the Commission should review the proposal with the objective of minimising modifications to the existing provisions to maintain their character as 'emergency legislation'. The current emergency has by no means abated, and thus the emergency provisions should be prolonged at least for the period envisaged by the Commission, but it appears premature to plan modifications such as those suggested by the Commission.

## 2. **General comments**

- 2.1 As the Commission outlines in its explanatory memorandum, the regulatory challenge in the context of the Slot Regulation is to ensure that grandfathered slots be used. The Commission amended the Regulation twice to adjust the use-it-or-lose-it rule. The Commission also received delegated powers to amend the slot use threshold in function of the persisting decline in demand.

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<sup>3</sup> [OJ C 123, 9.4.2021, p. 37](#), see point 1.5.

- 2.2 These slot relief measures will expire on 29 October 2022, with the Commission's delegated powers having already expired on 21 February 2022. With respect to the basic use-it-or-lose-it rule, the Commission now proposes re-establishing the standard slot use rate of 80% as of 29 October 2022. The reasoning given was that in June 2022, EUROCONTROL forecast that in the 2022-2023 winter season, traffic volumes would return to 90% of 2019 levels.
- 2.3 The EESC is not convinced by this reasoning. As a consequence of the Russian military aggression against Ukraine, military flights have increased significantly, as have re-routed overflights, neither of which are relevant for slot allocation. Furthermore, it is necessary to differentiate between the air cargo movements, which have not decreased significantly over the crisis period, and passenger traffic movements, which did decrease. Within this passenger market, a further differentiation is required: as a result of the EU COVID-19 pass, intra-European traffic has recovered far more quickly to pre-pandemic levels, however domestic air traffic and long-haul traffic are in different stages of recovery. Business traffic is expected to recover far more slowly than leisure traffic<sup>4</sup>. It is by no means a given that leisure traffic will recover consistently; some of this growth can be attributed to pent-up demand for vacations after two years of COVID-19. The major European network carriers have not yet reintroduced their large long-haul aircraft Airbus 380 into their respective fleets, precisely because airlines are faced with high fuel costs and because they do not expect significant and consistent increases in traffic demand. Data provided by the stakeholders indicate that traffic movements are expected to increase to 90% of 2019 levels, but passenger demand only to 78%. If the aircraft occupancy rate is lower, it can be expected that airlines will, for instance, combine multiple flights a day in order to maintain profitable flights<sup>5</sup>. Demand will be affected by rising inflation rates and increasing risks of recession in several countries. Forecasts should therefore not be based on the regions of best recovery, but should reflect particularly hard-hit sub-markets as well.
- 2.4 These factors lead the EESC to believe that the aviation market recovery may be more arduous than assumed by the Commission. Market segments are still recovering at different speeds: cargo 6% relative to 2019 levels; low-cost carriers -9%; and network carriers at 21%. This is all the more relevant as the thresholds refer to entire slot series, meaning that the series of slots (such as peak flights) need to be above the 80% threshold. In pre-pandemic periods, the slot use rate was at 95%, with the lowest slot use rate at 80%. If EUROCONTROL forecast an average slot use rate of 90%, then it must be assumed that the slot series will not (on average) reach 80%. For these reasons, it is much too premature to return to the 80:20 thresholds. It appears more appropriate to adopt a 70:30 ratio until more robust data is available to substantiate a sustainable market recovery. It should also be noted that the problems facing European airports clearly demonstrate that the effects of the COVID-19 pandemic have not yet been absorbed. Major EU hubs such as Frankfurt, and non-EU hubs such as London Heathrow, have capped flights to and from these airports, leading to massive flight cancellations in an attempt to ease

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<sup>4</sup> <https://www.airliners.de/prognose-globaler-geschaeftsreiseverkehr-erholt-deutlich/65958>.

<sup>5</sup> Publication of passenger numbers and forecasts at Munich Airport indicating that recovery to pre-pandemic traffic volumes will take longer than previously assumed: <https://www.airliners.de/wachsendes-passagieraufkommen-bayerns-flughaefen-weit-entfernt-corona-niveau/65950>.

the strain on airline operations at these airports. Such strains have been caused by a number of different variables, such as staff shortages. This is indicative of the fact that pre-pandemic thresholds for the slot use rate cannot yet be reached<sup>6</sup>.

- 2.5 A level of 70:30 would be in line with the thresholds and rationale adopted by the UK government<sup>7</sup>. Although it was heavily criticised by the airline sector, the EESC feels that it would strike a substantiated balance between returning to the status quo ante, while acknowledging that an (albeit reduced) level of slot protection is still required in light of the ongoing severe challenges facing the sector. Furthermore, it aligns the EU Slot Regulation threshold with that of neighbouring countries' policies, and levels the playing field for EU carrier hubs and London Heathrow Airport, Europe's largest international hub.
- 2.6 Additionally, the Commission proposes that during the period from 29 October 2022 to 26 March 2024, it may, at any time, independently adjust the slot use rate per delegated act between 0% and 70%, on the condition that EUROCONTROL data show that the weekly air traffic over four consecutive weeks falls below 80% compared to the corresponding weeks in 2019, and that the reduction in traffic is likely to persist. The Commission also proposes that if public authorities introduce restrictions intended to address any epidemiological situation, political unrest or natural disasters, and only when these have a detrimental effect on air traffic, airlines may benefit from a 'justified non-use of slots' (JNUS).
- 2.7 The EESC supports the Commission in its efforts to ensure that it can flexibly and transparently use delegated acts in clearly defined exceptional circumstances to adapt the calculation of the slot use rates, and thereby adjust the thresholds for slot protection. However, the new draft falls short of this objective in several respects.
- 2.7.1 Contrary to the Commission, the EESC believes airlines should be able to benefit from JNUS exceptions in cases of public recommendations against travel. Even if travel warnings have no immediate legal impact, they arguably affect demand for air travel, and this should be reflected appropriately.
- 2.7.2 Furthermore, the EESC believes that the requirement to monitor weekly air traffic flows for four consecutive weeks before any remedial action can be taken is unduly burdensome and could delay regulatory interventions unnecessarily. An unsubstantiated four-week monitoring phase appears arbitrary. It is far more important to ensure transparency of the decision-making process.
- 2.7.3 The EESC recommends that the JNUS rule be applicable at the airport of departure and arrival; the two are intrinsically linked as an airport pair in re-establishing the previous slot portfolio on given routes. The Commission currently does not provide for this as a mandatory requirement.

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<sup>6</sup> The labour shortage at key airports is mentioned by the Commission in the explanatory memorandum, however the Commission considers this to be a short-term phenomenon. This is questionable, as the labour shortage affects many economic sectors and not only aviation. There is no reason to believe that this will be resolved in aviation in the near future.

<sup>7</sup> On 24 January 2022 the UK government adjusted the slot use ratio to 70:30 beginning 27 March 2022 as a step toward normal rules, while protecting the sector against future uncertainty, as stated by UK Transport Secretary Grant Shapps.

- 2.7.4 The Commission has not sufficiently substantiated why the calculation of the slot use rate should be modified: Article 10.4 of the Slot Regulation provides for protected slots being calculated as used slots, whereas the Commission now proposes that these be ignored. The Commission assumes, without further proof, that the normal slot rules can be reinstated 16 weeks after re-opening Ukrainian airspace. This appears unduly optimistic in light of the ongoing hostilities, the degree of infrastructure destruction, and the uncertainties pertaining to the content and robustness of an agreement between the two sides. 16 weeks appears to be an arbitrary figure which should not be the base of a regulatory decision to 'return to normal'.
- 2.8 The EESC has consistently advocated that the Commission seek to align the Slot Regulation – to the greatest degree possible – with international practices and policies. All relevant stakeholders participate in consultations on how to adapt slot regulations to crises which the market faces.
- 2.9 The EESC welcomes the improvements suggested by the Commission on the manner in which the slot coordinators cooperate. Improved transparency in the process avoids unnecessary confusion among all market players.

Brussels, 21 September 2022

Christa SCHWENG

The president of the European Economic and Social Committee

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