

# Procedure file

## [Basic information](#)

2001/0140(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)  
Regulation

Air transport: slots at Community airports and competition (amend. Regulation (EEC) No 95/93)

Procedure  
completed

## Subject

2.60 Competition

3.20.01 Air transport and air freight

## [Key players](#)

Committee responsible	Rapporteur	Appointed
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RETT Regional Policy, Transport and Tourism	PSE <a href="#">STOCKMANN Ulrich</a>	11/09/2001
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Former committee responsible

RETT Regional Policy, Transport and Tourism	PSE <a href="#">STOCKMANN Ulrich</a>	11/09/2001
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## [European Parliament](#)

Former committee for opinion

ECON Economic and Monetary Affairs	ELDR <a href="#">RIIS-JØRGENSEN Karin</a>	09/10/2001
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ENVI Environment, Public Health,  
Consumer Policy

The committee decided not to give  
an opinion.

Council configuration

Meeting Date

[Justice and Home Affairs \(JHA\)](#) [2561](#) 19/02/2004



[Council of the European Union](#) [Transport, Telecommunications and Energy](#) [2551](#) 05/12/2003

[Transport, Telecommunications and Energy](#) [2515](#) 05/06/2003

[Transport, Telecommunications and Energy](#) [2364](#) 27/06/2001

[European Commission](#) Commission DG Commissioner  
Energy and Transport

### [Key events](#)

19/06/2001	Legislative proposal published	COM(2001)0335	
27/06/2001	Debate in Council	<a href="#">2364</a>	
03/09/2001	Committee referral announced in Parliament, 1st reading		
22/05/2002	Vote in committee, 1st reading		<a href="#">Summary</a>
21/05/2002	Committee report tabled for plenary, 1st reading	<a href="#">A5-0186/2002</a>	
10/06/2002	Debate in Parliament		
11/06/2002	Decision by Parliament, 1st reading	<a href="#">T5-0293/2002</a>	<a href="#">Summary</a>
06/11/2002	Modified legislative proposal published	<a href="#">COM(2002)0623</a>	
05/06/2003	Debate in Council	<a href="#">2515</a>	
18/02/2004	Council position published	<a href="#">16305/1/2003</a>	<a href="#">Summary</a>
26/02/2004	Committee referral announced in Parliament, 2nd reading		
17/03/2004	Vote in committee, 2nd reading		
16/03/2004	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A5-0217/2004</a>	
31/03/2004	Debate in Parliament		
01/04/2004	Decision by Parliament, 2nd reading	<a href="#">T5-0265/2004</a>	<a href="#">Summary</a>
21/04/2004	Final act signed		
21/04/2004	End of procedure in Parliament		
30/04/2004	Final act published in Official Journal		

### [Technical information](#)

Procedure reference	2001/0140(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	RETT/5/19772

### [Documentation gateway](#)

Legislative proposal	COM(2001)0335 <a href="#">OJ C 270 25.09.2001, p. 0131 E</a>	20/06/2001 EC	<a href="#">Summary</a>
Economic and Social Committee: opinion, report	<a href="#">CES0346/2002</a> <a href="#">OJ C 125 27.05.2002, p. 0008</a>	20/03/2002 ESC	

Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0186/2002</a>	22/05/2002 EP
Text adopted by Parliament, 1st reading/single reading	<a href="#">T5-0293/2002</a> <a href="#">OJ C 261 30.10.2003, p. 0030-0116 E</a>	11/06/2002 EP <a href="#">Summary</a>
Modified legislative proposal	<a href="#">COM(2002)0623</a>	07/11/2002 EC <a href="#">Summary</a>
Council statement on its position	<a href="#">05998/2004</a>	06/02/2004 CSL
Council position	<a href="#">16305/1/2003</a>	19/02/2004 CSL <a href="#">Summary</a>
Commission communication on Council's position	<a href="#">COM(2004)0136</a>	24/02/2004 EC <a href="#">Summary</a>
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A5-0217/2004</a>	17/03/2004 EP
Text adopted by Parliament, 2nd reading	<a href="#">T5-0265/2004</a> <a href="#">OJ C 103 29.04.2004, p. 0681-0793 E</a>	01/04/2004 EP <a href="#">Summary</a>
Follow-up document	<a href="#">COM(2007)0704</a>	15/11/2007 EC <a href="#">Summary</a>
Follow-up document	<a href="#">COM(2008)0227</a>	30/04/2008 EC <a href="#">Summary</a>
<a href="#">Additional information</a>		

European Commission

[EUR-Lex](#)

[Final act](#)

[Regulation 2004/793](#)

[OJ L 138 30.04.2004, p. 0050-0060](#) [Summary](#)

## **Air transport: slots at Community airports and competition (amend. Regulation (EEC) No 95/93)**

The Council accepted the Commission's basic objective which is to improve the technical functioning of the slot allocation system. In this regard the common position inter alia : - includes important amendments and additions to the definitions to clarify the terms used in the Regulation; - provides for a reinforcement of the independent status of the slot coordinator and the coordination committee; - provides for sanctions when slots are used in an abusive manner. Regarding aspects of the Commission proposal that could affect market access arrangements, the Council accepted some, but not all, of the changes proposed by the Commission. A broadening of the definition of "new entrant" was accepted, as well as a provision giving greater priority to new entrants in the allocation of slots from the "slot pool". However, other provisions proposed by the Commission, notably on slot exchanges and the prohibition of trading, were not taken on board by the Council. In not incorporating these provisions, the Council was primarily concerned that the whole issue of market access should be considered in the wider context of a more thorough revision of the slot allocation rules, which could be the subject of a separate Commission proposal in the future. The Council followed to a large degree the concerns underlying the Parliament's first reading opinion. In total 32 of the 52 amendments proposed by the Parliament were accepted in full, in part or in principle.?

## **Air transport: slots at Community airports and competition (amend. Regulation (EEC) No 95/93)**

The Commission considers that the common position adopted by qualified majority is acceptable and thus can be supported. These changes concern mainly the technical aspects of slot allocation. The Common Position confirms the aim of the Commission proposal to modernise the slot allocation procedures by clarifying the terms used in the Regulation, setting high standards of independence and accountability of the slot coordinator, ensuring that the coordination committee remains independent from any party that may be concerned in cases of mediation and, finally, by providing for sanctions against the abusive use of slots. Nevertheless, because the Council did not go as far as proposed by the Commission, particularly on the core question of false slot exchanges and the commercialisation of slots, the Commission made the following declaration to the common position: "The Commission deplores that the Council was not able to reach an agreement on the issue of strengthening its disciplines for the allocation of slots. It is for this reason, that it announced in its proposal, that it intends, in 2004, to draft a second proposal on this matter, in order to facilitate the access to airports in particular the most saturated ones

and to encourage competition. This second proposal shall be supported by a study in the course of being carried out and a broad consultation of the players concerned. The Commission is waiting a rapid examination of this proposal by the 2 institutions".?

## **Air transport: slots at Community airports and competition (amend. Regulation (EEC) No 95/93)**

Ulrich STOCKMANN (PES, D) saw his recommendation for second reading on common rules for the allocation of slots on Community airports adopted without amendment. Council had incorporated in its common position Parliament's key amendments from first reading. Plans to relax the application of slot allocation rules following the war in Iraq and the outbreak of SARS were warmly welcomed. The proposals seek to improve the current slot system in terms of its clarity and transparency. Particular attention has been paid to reinforcing the independent status of the slots co-ordinator, and ensuring that the co-ordination committee was also free from undue influence. A possibility of sanctions was provided for and the division of tasks between the co-ordinator, co-ordination committee and Member States was also clarified to ensure the proper handling of complaints. MEPs welcomed the fact that Council has accepted the basic objective to improve the technical functioning of the slot allocation system. A broadening of the definition of "new entrant" was accepted as well as a provision giving a greater priority to new entrants in the allocation of slots from the "slot pool". Finally, the "use-it-or-lose-it" rule, which requires air carriers to use 80% of their slots in one scheduling season in order to receive them again for the next season, was adapted in the sense that unforeseeable circumstances, on which an air carrier has no influence, were also incorporated.?

## **Air transport: slots at Community airports and competition (amend. Regulation (EEC) No 95/93)**

**PURPOSE :** to clarify the application of the existing regime on a number of different points, including the independent status of coordinators and the functioning of slot allocation procedures. **LEGISLATIVE ACT :** Regulation 793/2004/EC of the European Parliament and of the Council amending Council Regulation 95/93/EEC on common rules for the allocation of slots at Community airports. **CONTENT :** this Regulation highlights that experience has shown that Council Regulation 95/93/EEC should be strengthened to ensure the fullest and most flexible use of limited capacity at congested airports. It is therefore necessary to amend that Regulation and to clarify a number of its provisions. The Regulation stipulates that at a coordinated airport, the Member State responsible shall ensure that a coordination committee is set up. The same coordination committee may be designated for more than one airport. It is necessary to specify in detail the role of the coordination committee which is established to advise and mediate in relation to slot allocation. Member State representatives should be invited to meetings of the coordination committee as observers without voting rights. Such observer status should be without prejudice to the possibility that such representatives could chair committee meetings. It is important to ensure that the coordination committee has no power to take decisions that would be binding on the coordinator. The tasks of the coordination committee shall be: a) to make proposals concerning or advise the coordinator and/or the Member State on: - the possibilities for increasing the capacity of the airport or for improving its usage; - the coordination parameters to be determined; - the methods of monitoring the use of allocated slots; - local guidelines for the allocation of slots or the monitoring of the use of allocated slots, taking into account, inter alia, possible environmental concerns; - improvements to traffic conditions prevailing at the airport in question; - serious problems encountered by new entrants; - all questions relating to the capacity of the airport; b) to mediate between all parties concerned on complaints on the allocation of slots. It is also necessary to make clear that slot allocation should be considered as giving air carriers permission to access the airport facilities for landing and taking-off at specific dates and times for the duration of the period for which the permission is granted. The need to develop rules and procedures for coordinating airport and airway slots should be examined. However, in the interest of stability of operations, the existing system provides for the reallocation of slots with established historical precedence ('grandfather rights') to incumbent air carriers. In order to encourage regular operations at coordinated airports it is necessary to provide that grandfather rights relate to series of slots. At the same time, Member States should, when defining capacity parameters, be able to take account of operational and environmental constraints. Concerning the process of slot allocation, the Regulation states that a series of slots are allocated from the slot pool to applicant carriers as permissions to use the airport infrastructure for the purpose of landing or take-off for the scheduling period for which they are requested, at the expiry of which they have to be returned to the slot pool. On slot mobility, slots may be: - transferred by an air carrier from one route or type of service to another route or type of service operated by that same air carrier; - transferred: between parent and subsidiary companies, and between subsidiaries of the same parent company or as part of the acquisition of control over the capital of an air carrier, - in the case of a total or partial take-over when the slots are directly related to the air carrier taken over; - exchanged, one for one, between air carriers. As far as the slot pool is concerned, the coordinator shall set up a pool, which shall contain all the slots not

allocated. All new slot capacity shall be placed in the pool. A series of slots that has been allocated to an air carrier for the operation of a scheduled or a programmed non-scheduled air service shall not entitle that air carrier to the same series of slots in the next equivalent scheduling period if the air carrier cannot demonstrate to the satisfaction of the coordinator that they have been operated, as cleared by the coordinator, by that air carrier for at least 80 % of the time during the scheduling period for which they have been allocated. Slots allocated to an air carrier before 31 January for the following summer season, or before 31 August for the following winter season, but which are returned to the coordinator for reallocation before those dates shall not be taken into account for the purposes of the usage calculation. Slots placed in the pool shall be distributed among applicant air carriers. 50 % of these slots shall first be allocated to new entrants unless requests by new entrants are less than 50 %. The coordinator shall treat the requests of new entrants and other carriers fairly, in accordance with the coordination periods of each scheduling day. Among requests from new entrants, preference shall be given to air carriers qualifying for new entrant status. A new entrant which has been offered a series of slots within one hour before or after the time requested but has not accepted this offer shall not retain its new entrant status for that scheduling period. Slots allocated to one air carrier may be used by other air carrier participating in a joint operation, provided that the designator code of the air carrier to whom the slots are allocated remains on the shared flight for coordination and monitoring purposes. The Member State responsible for a schedule facilitated or coordinated airport shall ensure: - that at a schedule facilitated airport, the schedule facilitator acts under this Regulation in an independent, neutral, non-discriminatory and transparent manner; - the independence of the coordinator at a coordinated airport by separating the coordinator functionally from any single interested party. The system of financing the coordinators' activities shall be such as to guarantee the coordinator's independent status; - that the coordinator acts according to this Regulation in a neutral, non-discriminatory and transparent way. Lastly, the Commission shall submit a report to the European Parliament and the Council on the operation of this Regulation at the latest three years after its entry into force. The report shall address in particular the functioning of the process of slot allocation, slot mobility and slot pools. ENTRY INTO FORCE : 30 July 2004.?

## **Air transport: slots at Community airports and competition (amend. Regulation (EEC) No 95/93)**

The European Commission has presented a Communication on the application of Regulation (EC) 793/2004 on common rules for the allocation of slots at Community airports.

On 23 January 2007, the Commission launched a consultation exercise to obtain interested parties' comments on the operation of the regulation. The following picture emerges from the contributions:

- Member States, as well as other stakeholders, point at the fact that Regulation 793/2004 has been in force for only three years. This relatively short period makes it difficult to identify firm trends and to make a reliable assessment of the effects;
- air carriers point at the main problem that lies at the heart of the current shortage of slots at congested airports, namely the lack of airport capacity. Rather than addressing the symptoms, such as the scarcity of slots, the air carriers advocate increasing physical airport capacity;
- airports acknowledge the positive results of the Regulation but also point at the necessity to further improve capacity usage by means of additional rules and local guidelines;
- with regard to the process of slot allocation, Member States and all other stakeholders are of the opinion that it has significantly improved, even if it is difficult to measure its effect in terms of efficiency of airport use;
- the obligation for Member States to ensure that sanctions or equivalent measures are available to deal with slot abuse has a significant effect on the behaviour of air carriers;
- the slot coordinators are of the opinion that there is scope for further improvements, notably on the issue of new entrance, local rules and the role and position of the coordinator.

**New entrant:** the new entrant rule does not appear to have been understood by a sufficient number of actors. It seems to have a limited effect on competition at Community airports and on the best use of scarce capacity as it creates a negligible presence at a busy airport, leading to a range of small operations that do not provide effective competition in the market place.

**Role of coordinators:** there are concerns about the coordinator's neutrality and functional independence in coordinated Community airports. Evidence would suggest that the relevant provisions of the Regulation have not yet been implemented in a unified and consistent way in all Member States.

**The process of slot allocation:** the absence of a common definition of the idea of efficient use of airport capacity makes it difficult to evaluate the effects of the revised regulation. Local guidelines have the potential to add more

flexibility to adapt to local circumstances to allow for better use of the existing slots at congested airports, provided they comply with the provisions of the Regulation.

**Enforcement:** Air carriers welcome the significant progress that has been made by requiring that effective, proportionate and dissuasive sanctions or equivalent measures are applied to prevent abuse of the slot allocation mechanism. The effects thereof are not quantified, however. The introduction of dissuasive sanctions or equivalent measures to prevent slot abuse has fostered better use of existing capacity.

**Conclusion:** although the Regulation has brought some improvements in use of airport capacity, it is not adequate to address the increasing congestion at Community airports. Implementation of the measures set out in the Commission Communication "An action plan for airport capacity, efficiency and safety in Europe" , adopted in January 2007 (see [INI/2007/2092](#)), is needed to achieve a more efficient use of scarce airport capacity possibly accompanied by a more structured approach to market based slot allocation schemes.

The Commission will now have to concentrate on assuring adequate implementation of a number of issues with which stakeholders have experienced particular difficulties. Furthermore, the Commission concludes that the existing Regulation can be improved through an interpretative instrument where the scope of a number of provisions would be clarified. The Commission could envisage a partial review of the text should this prove to be necessary.

## **Air transport: slots at Community airports and competition (amend. Regulation (EEC) No 95/93)**

The purpose of this Communication is to set out the Commission's concerns and views regarding the application of provisions for the allocation of slots at Community airports. The new provisions, set out in the Regulation on common slots at Community airports, relate to: new entrants; enforcement; and the independence of the coordinators. Although this has resulted in some improvements (sanctions to prevent slot abuse at coordinated airports, which has resulted in a better use of existing capacity), both the Member States and stakeholders report that a number of provisions are still not fully or completely implemented. This conclusion is underpinned by a Commission Report on the application of slot Regulations. The main problems, as found in the report are:

- An insufficient application of provisions obliging the Member States to guarantee the functional and financial independence of the coordinators at coordinated airports. This could impede the coordinator's ability to function in a neutral, non-discriminatory and transparent manner.
- A continuing lack of full transparency regarding information that coordinators should provide regarding schedules, allocation and available slots. This could hinder a more efficient use of slots and distort competition given that not all interested parties have access to the schedule data.
- The non-compliance of provisions regarding local guidelines for the better use of existing slots at coordinated airports.
- The exchange of slots by air carriers at congested Community airports for monetary and other consideration.
- The need for greater consistency between slots and flight plans in order to avoid slot abuse and to guarantee compliance with the Regulation.

**Independence of the coordinator:** An independent coordinator is essential. The Commission is of the view that functional separation means that the coordinator should act autonomously from, not be instructed by, and not have a duty to report back to, the airport managing body, a service provider nor any air carrier operating from the airport concerned. This should also mean that the coordinator is financially independent from any single party directly affected by, or having an interest in, its activities. Separate accounts and budgets should, therefore, be kept.

**New Entry:** To recall, the Regulation specifies that 50% of slots must first be allocated to new entrants, unless requests by new entrants are less than 50%. Questions have been raised about whether this obligation relates only to the initial allocation from the pool about four months before the start of the relevant summer and winter scheduling seasons, or whether this also applies through the scheduling season.

The Commission's response is that neither in Article 10 (6) nor in any other provisions is the scope of this Article limited to the initial allocation of slots prior to each scheduling season. It is therefore of the view that the provisions of Article 10(6) should be applied permanently and continuously, throughout the scheduling seasons.

**Transparency of schedule data:** Transparent information is essential for ensuring an objective procedure for slot allocation and for guaranteeing that the coordinator acts in accordance with set requirements. The Commission calls on the Member states to ensure that coordinators fully comply with the requirements laid down in Article 4(8) and it

calls on the Member States to encourage all coordinators and schedule facilitators to submit their schedule data to the combined database.

**Local guidelines:** The Commission reminds readers that any environmental concerns that are incorporated in local guidelines must be compatible with Community law. They must also be compatible with Community legislation on intra-Community air routes, which requires that restrictions must be non-discriminatory on grounds of nationality or identity of air carriers and that they must not unduly distort competition between air carriers. Similarly any restrictions concerning noise reduction must comply with EU noise legislation.

**Exchange of slots:** The Commission remains concerned that the Regulation is still not leading to the most efficient use of slots. It does recognise, however, that exchanges of slots for monetary and other consideration (referred to as secondary trading) is taking place at a number of congested Community airports leading to the creation of additional services on specific routes. Given that there is no clear and explicit prohibition of such exchanges, the Commission does not intend to pursue infringement proceedings against the Member States where such exchanges take place. Should, however, it emerge that for competition or other reasons, revision of the existing legislation is required, the Commission will make an appropriate proposal.

**Consistency between slots and flight plans:** Experience shows that verification of flight plans against airport slots in particular allocation to general aviation by Air Traffic Management authorities and coordinators rarely takes place in a systematic manner. A consistent approach between requests for single slots and flight plans is increasingly relevant for general and business flights, which by definition, operate unscheduled services often outside the allocated slot bracket or even without having obtained a slot from the slot pool in advance. As a result, these ad-hoc flights may interfere with the proper operation of coordinated airports, where slots tend to reflect flight plans and where air carriers are required to operate in accordance with the slots allocated to them.

To conclude, the Commission hopes that this Communication will stimulate a better use of scarce capacity at coordinated airports. It will continue to monitor the function of the Regulation and may consider whether it is necessary to make a proposal to amend the Regulation.