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CORRIGENDUM
Annule et remplace le document COM(2011) 827 final du 1/12/2011
Concerne la version anglaise, page 8 (point 31), page 12 (point 4), page 14 (points 13 et 16), page 15 (points 19 et 20), page 16 (points 23 et 24), page 17 (points 25 et 26), page 21 (article 2, point 9), page 25 (article 3, point 3 le troisième paragraphe), page 26 (article 3, point 9), page 27 (article 4, point 1), page 28 (article 5, points 1 et 2), page 29 (article 5, point 3(b) ii et point 3 la dernière phrase), page 33 (article 7, point 1 le troisième paragraphe), page 34 (article 8, point 1(a) vii), page 37 (article 9, point 8 et le dernière paragraphe), page 39 (article 10, point 5(c)), page 41 (article 11, point 1), page 43 (article 13, point 2 le dernière paragraphe), page 44 (article 15, point 3), page 46 (titre avant article 17) et page 48 (article 19, point 1).

Airport package

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on common rules for the allocation of slots at European Union airports

(Recast)

(Text with EEA relevance)

{SEC(2011) 1443 final}
{SEC(2011) 1444 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Context

1. At airports where demand among airlines for landing and takeoff slots exceeds the airport's capacity, slot allocation mechanisms are used to define a set of rules to be followed for the allocation of slots. The granting of a slot at an airport means the airline may use the entire range of infrastructure necessary for the operation of a flight at a given time (runway, taxiway, stands and, for passenger flights, terminal infrastructure). Depending on the characteristics of the airport, slot allocation may be necessary at specific times of the day or during certain busy periods. The objective is to ensure that access to congested airports is organised through a system of fair, non-discriminatory and transparent rules for the allocation of landing and take-off slots so as to ensure optimal utilisation of airport capacity and to allow for fair competition.

2. The European Community adopted Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (the Slot Regulation) in 1993 and amended it in several important respects in 2004. Because aviation is by its nature a global business, but also subject to local regulations, it is important to note that slot allocation works differently in different parts of the world. In Europe, the Slot Regulation draws on the global guidelines of the International Air Transport Association (IATA).

3. The main features of the current slot allocation system are the following: Member States must designate an airport as coordinated if a thorough capacity analysis proves that there is a significant shortfall in capacity at this airport[1]. A second step is for the Member State to appoint an airport coordinator. The coordinator is in charge of allocating airport slots and is obliged to act in an independent, neutral, non-discriminatory and transparent manner.

4. Slots are allocated for the summer scheduling season or for the winter scheduling season. If an air carrier has used a series of slots[2] for at least 80 % of the time during a season, it will be entitled to the same series of slots in the next corresponding season ('historical slots', 'grandfather rights' or '80-20 rule'). If the threshold is not reached, the slots go to the slot pool for allocation. 50 % of the pool slots are allocated first to new entrants[3].

5. There are currently 89 fully coordinated airports in countries where the Slot Regulation applies (the European Economic Area plus Switzerland). Of these airports, 62 are coordinated year-round, and 27 are coordinated seasonally. These

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1 Airports with potential for congestion at certain periods only will be designated as schedules facilitated. At these airports the procedure is based on a voluntary cooperation between air carriers. A schedules facilitator will be designated and its role is to facilitate the operations of air carriers.

2 A slot series is defined in Article 2(k) of the Slot Regulation: '[…] at least five slots having been requested for the same time on the same day of the week regularly in the same scheduling period and allocated in that way or, if that is not possible, allocated at approximately the same time'.

3 A 'new entrant' is defined in Article 2(b) of the Slot Regulation as a carrier with only a limited presence at an airport.

airports include some where demand substantially exceeds capacity at all times, such as London Heathrow and Paris Orly, and others where capacity is scarce during certain peak periods. 18 Member States have at least one coordinated airport and should therefore appoint a coordinator.

1.2. Reasons and objectives for the proposal

6. The implementation of the Slot Regulation has significantly improved slot allocation at busy European airports in terms of neutrality and transparency, making a major contribution to the creation of the internal market in aviation. The Slot Regulation was introduced at a time when the European air transport market was still dominated by a small number of traditional national carriers. Nowadays, however, there is much more competition. Since 1992, the number of intra-EU routes operated has more than doubled and there has been a 150 % increase in long-haul flights departing from European airports. In 1992, just 93 European routes were served by more than two airlines. In 2010 there were 479 such routes. It is questionable whether such progress could have been achieved without a system to ensure that slots at busy airports are allocated free of any undue influence from government, national carriers or airports.

7. As highlighted by Eurocontrol and ACI-Europe[4], one of the key challenges facing Europe is airport congestion. According to Eurocontrol's Long Term Forecast in December 2010[5], even taking into account currently planned infrastructure enhancements, as much as 10 % of demand for air transport will remain unmet in 2030 due to a shortage of airport capacity. Moreover, the impact assessment accompanying this proposal demonstrates that the EU's busiest airports are unlikely to see any improvement in the current situation, even taking into account planned capacity enhancements[6].

8. In view of the shortage of capacity at critical airports and the spill-over effect on the mobility of European citizens, building new runways and airport infrastructure is the obvious answer. However, the impact of infrastructure on the environment and on land planning is a growing concern. In addition, the current economic crisis reaffirms the importance of ensuring the long-term sustainability of budgets. Instead of relying on expanding 'hard' infrastructure, more cost-effective solutions have to be found to tackle congestion.

9. Clearly, slot allocation cannot generate additional capacity. Moreover, slot allocation cannot solve the many problems created by a lack of capacity, such as how to adequately cater for air links to Europe's regions from capacity-constrained airports, or provide congested hubs with better connections to all world regions. Enhanced slot allocation schemes will never satisfy these important needs. However, they can be an effective tool for managing scarce capacity.

10. Therefore, it is necessary to review the Slot Regulation to determine to what extent it can be improved with a view to matching capacity to demand for air transport in all

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4 Airport Council International Europe (www.aci-europe.org).

5 http://www.eurocontrol.int/statfor/gallery/content/public/forecasts/Doc415-LTF10-Report-Vol1.pdf. The figures in the Eurocontrol report refer to IFR (instrument flight rules) flight movements only.

6 See Table 1, Forecast Airport Congestion, impact assessment accompanying this proposal, p. 17.

sectors (long-haul, regional, cargo, etc.). The importance of slot allocation in creating an integrated and efficient market for the Single European Transport Area was recognised in the March 2011 White Paper on transport, which is itself part of the flagship initiative on a resource-efficient Europe launched under the Europe 2020 Strategy. Accordingly, the Commission has given serious consideration to the introduction of market-based mechanisms for the use of airport slots, since appropriate incentives and benefits can positively influence the behaviour of players in the market (airlines) so that the available scarce capacity is used by those able to make best economic use of it. In this way, although there would be no extension of the physical capacity, a more rational use of the limited capacity available would be achieved.

11. Such a market in airport slots (in the form of secondary trading) has been in operation at UK airports for some time, as the Commission recognised in a 2008 Communication[7]. Indeed, slots at London Heathrow have changed hands for high prices: in March 2008 it was widely reported that Continental Airlines had paid $ 209 million (or € 143 million at the then exchange rate) for four pairs of slots at Heathrow.

12. Recent years have seen greater attention paid to the need to strengthen the performance of the aviation system at European level. The changes to the management of air traffic in Europe from 2009 onwards as part of the Single European Sky initiative reflect the fact that, in certain respects, management is best conducted at European or regional level. This is seen in the creation of functional airspace blocks and in the strengthening of central functions such as network management. Given the nature of the network, which comprises both point to point and hub and spoke operations, the impact of problems in one part of the network (for example, closure of an important node) cannot be isolated to that part of the network. This becomes even more apparent when critical parts of the network are running at or near capacity, which reduces the margin available for accommodating diverted flights, for example. Consequently, improving the performance of the European system also implies improving its resilience.

1.3. Objectives of the proposal

13. The general objective is to ensure optimal allocation and use of airport slots in congested airports. The specific objectives are:

(1) to ensure strengthened and effectively implemented slot allocation and use; and

(2) to enhance fair competition and competitiveness of operators.

1.4. Provisions in force in the policy sphere of the proposal

14. The proposal concerns the amendment of Council Regulation (EEC) 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports. Slot allocation is not dealt with directly by any other provisions.

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[7] COM(2008) 227.

1.5. Consistency with the other policies and objectives of the European Union

15. This initiative is one of the actions necessary for the Single European Transport Area as described in the Commission's White Paper: Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system [COM(2011) 0144]. It is also part of the airport package of measures identified as a strategic initiative in the 2011 Commission Work Programme [COM(2010)623], contributing to tapping the potential of the Single Market for growth.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultation of interested parties

16. After first consulting the interested parties in 2007, and after adopting the Communications of 2007 (COM(2007)704) and 2008 (COM(2008)227), in September 2010 the Commission launched a comprehensive online public consultation, the objective of which was to evaluate the current operation of the Regulation and to elicit stakeholders' comments on a detailed list of policy options which could be addressed through the revision of the Regulation. A second stakeholders' hearing was organised on 29 November 2010 and was attended by 16 Member States and representatives of each of the relevant stakeholder groups.

17. A summary of the consultation is published on the Commission's website[8]. Air carriers are broadly satisfied with the functioning of the current Slot Regulation, so most respondents within this group do not support any changes. The fact that the slot allocation system in effect regulates access to some of the most popular airports in the world explains the sensitivity of the issue, in particular for airlines. Several airlines stress that the most important issue is the shortage of airport capacity, which changes to the Slot Regulation would not address.

18. Airports and airport associations see more need for change, so are more likely to see benefits in the options put forward in the consultation. This also applies, to a lesser extent, to the slot coordinators. There is more divergence among the Member States and 'other' respondents, although these stakeholders generally support amendments to the Slot Regulation.

2.2. Collection and use of expertise

19. Continuous monitoring by the Commission of the functioning of the Regulation has been accompanied by several external studies, the results of which are available on the Commission website[9]. In particular, the Commission decided in 2010 to undertake a thorough assessment of the current situation for the period 2006-2010[10].

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8 http://ec.europa.eu/transport/air/studies/airports_en.htm. The summary is included in section 8 of the study on possible revisions to the Slot Regulation (Steer Davies Gleave, 2011).

9 In particular we would mention: *Study to assess the effects of different slot allocation schemes*, National Economic Research Associates (NERA), 2004, and *Study on the impact of the introduction of secondary trading at Community airports*, Mott MacDonald, 2006. All the studies mentioned here are available at http://ec.europa.eu/transport/air/studies/airports_en.htm.

10 See the study by Steer Davies Gleave referred to in footnote 8.

This concluded that the efficient use of airport capacity in Europe is currently hindered by a number of problems.

2.3. Impact assessment

20. The impact assessment provides an overview of the different options which have been considered. In summary the content of the three packages is as follows.

21. The first policy package included measures to improve the effectiveness of slot allocation and the use of slots, without changing the administrative nature of the current system. There would be a number of improvements to the current system, but market-based mechanisms would not be introduced. Due to the limited scope of this package, the estimated benefits are rather modest: an average annual increase of 0.4 % in the number of passengers carried.

22. The second package incorporated the elements of the first package but added several more, including market-based mechanisms (in the form of explicit provision for secondary trading across the EU). It also included several pro-competitive proposals, such as revision of the new entrant rule and making the criteria for granting priority for allocation of a slot for the following season (so-called grandfather rights) slightly stricter. For the 2012-25 period, the package was estimated to result in an average annual increase of 1.6 % (or 23.8 million) in the number of passengers carried, a net economic benefit of € 5.3 billion, as well as a significant increase in employment (up to 62 000 full-time jobs).

23. This policy package will have negative environmental impacts as CO2 emissions will increase due to the greater number of flights. However, due to the inclusion of aviation CO2 emissions in the general EU emissions trading system (ETS) from 2012, there should be no growth in total CO2 emissions attributable to this policy package. Moreover, since the existing capacity would be used more intensively, the environmental impact of capacity expansion would be avoided.

24. The third package comprised all elements of the second package, but took the market-based mechanism a step further by withdrawing 'grandfather' or 'historical' slots and having them auctioned. This policy package would lead to an increase of 1.9-2% passengers that travel by air, corresponding to 27.3-28.7 million passengers per year. However, as this measure has never before been implemented, the potentially positive impact has to be balanced against the risk that the option could dramatically affect airlines by increasing substantially their operating costs, as a result of disruption to their schedules and hub and spoke business model founded upon a wide portfolio of slots at congested airports. Consequently, this package would lead to less significant economic benefits of between € 2.8 and 5 billion.

25. In view of the assessment of the different policy packages on the basis of the efficiency, effectiveness and consistency criteria, it is recommended that the second package be implemented as its benefits would be considerably higher than the costs incurred.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposed action

3.1.1. Introduction of the possibility for secondary trade in slots and increased competition

26. In order to encourage greater slot mobility, the proposal expressly allows airlines to buy and sell slots. Improving slot mobility will help allow airlines to adapt their slots portfolios according to their scheduling needs. The Slot Regulation already allows airlines to exchange slots with other airlines. In many cases, this involves exchanging a slot at a valuable time of day for a 'junk slot', i.e. a slot late in the evening or in the early afternoon, which is not particularly useful. Following the trade, the 'junk slot', which was only acquired for trading purposes, is returned to the pool. Under the current Regulation, a *transfer* of slots is permitted only in a very limited number of cases.

27. The existing new entrant rule, which accords priority to airlines with only a few slots at a coordinated airport, has not yielded the desired results. Typically, the emergence of a strong competitor at a given airport requires it to build up a sustainable slot portfolio to allow it to compete effectively with the dominant carrier (usually the 'home' carrier). Under the current rules, airlines quickly fall outside the definition of 'new entrant' at an airport, even when their slot holdings are rather limited. Therefore it is proposed to broaden the definition of 'new entrant', to help facilitate the growth of sustainable competitors and reduce the schedule fragmentation that occurs when slots are allocated to a larger number of airlines unable to translate these slots into a viable alternative to dominant carriers.

3.1.2. Strengthening the transparency of the slot allocation process and the independence of slot coordinators

28. The proposal contains a number of provisions to ensure that the slot allocation process is supported by a sufficient degree of transparency. This is important not only for airlines using slots, but also for public authorities responsible for regulatory functions. This becomes even more important in a system where slots can be traded among airlines.

29. The proposal will allow stricter criteria for the independence of the coordinators with regard to any interested party to be defined. It also advocates enhanced cooperation between the coordinators, initially through the development of common projects covering, for instance, the development of common slot allocation software or even merging the coordination activities for airports situated in different Member States. On the basis of progress made, the Commission could eventually propose, at a later stage, the creation of a European coordinator responsible for slot allocation at all European Union airports.

3.1.3. Integration of slot allocation with the reform of the European air traffic management system (Single European Sky)

30. The proposal aims to make an important contribution to strengthening the management of the aviation network at European level by associating the European Network Manager with the slot allocation process. Thus, the Commission may

request a capacity analysis at an airport, should the network manager deem this necessary for ensuring coherence with the airport operational plan (already provided for in the regulation setting up the network manager). Such capacity analyses would be carried out in accordance with standards agreed at European level. Moreover, the Commission could make recommendations to the Member State on the capacity assessment if the network manager suggests that it does not fully take into account the needs of the European network. The objective of these recommendations would be to allow the Member State to take into account the European network perspective and increase awareness of the impact of airport capacity assessment upon the whole network, for instance in terms of delays.

31. The proposal also introduces a new category of airport: the 'airport belonging to a network'. Such airports are not coordinated, but are identified as important since they may offer alternatives during times of network disruption. Thus, the proposal provides that coordinators gather information on the operations at these airports.

3.1.4. Amendment of the '80-20' rule and definition of a series of slots and resort to the airport charge system to discourage the late return of slots to the pool

32. To help ensure that existing capacity is used optimally, the proposal makes some changes to the criteria for the use of airport slots in order for 'grandfather rights' to be granted. In order for airlines to be granted priority for the allocation of a given slot in the next corresponding scheduling season, they need to have used at least 85 % of the allocated series of slots (instead of 80 % at present).

33. In addition, the minimum series length (i.e. the minimum number of weekly slots required for priority allocation for the following corresponding season) is raised from 5 to 15 for the summer season and 10 for the winter season. Increasing the series length would reduce fragmentation of the slot structure at an airport, since short series attracting grandfather rights can prevent longer series being operated by other airlines. Exceptions are provided for certain types of traffic (*charter*) to take the characteristics of regional airports into account.

34. To ensure that slots reserved prior to the start of an operating season are in fact operated as planned by airlines, the proposal would authorise airports to use an airport charge system to dissuade air carriers from belatedly returning slots to the pool. Reserving airport capacity and not using it generates a cost which is currently borne by the airlines operating from the airport. The proposal encourages the airport managing body to introduce a charge system to discourage behaviour that leads to less efficient use of airport capacity.

3.2. Provisions that remain unchanged

35. The following provisions are taken over without substantial modification from the current Regulation: Article 2(a), (b)(i), (e), (g), (k), (l), (o) and (p); Article 3(1), (2), (4) and (6); Article 4(1) second indent, and (5); Article 5(3)(a) and (d), and (4), (5) and (6); Article 6(3)(a), (b) and (c); Article 8(1)(a)(i), (ii), (iii) and (v), and (c); Article 9(3), (6), (7) and (9); Article 10(1), (5)(a)(i) and (iii), and (c) and (d), and (6); Article 12; Article 13(2), second indent, (b) and (c), and (3), first and second indents; Article 16(1) and (5); Article 19; Article 21(2); and Article 21(2).

3.3. Legal basis

Article 91 of the TFEU.

3.4. Subsidiarity principle

36. The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union. The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons. The harmonisation of conditions for access to congested airports in the EU remains necessary to prevent barriers due to conflicting national practices. Therefore problems related to access to congested airports require a solution at European level.

37. The objective of ensuring the functioning of the internal aviation market by reducing obstacles to intra-EU trade arising from different national standards or practices could not be sufficiently achieved by Member States. Consequently, in line with the principle of subsidiarity and given the scale and effects of the problem, action is required at EU level.

38. European rules on slot allocation are an essential accompaniment to the European legislation underpinning the internal market in aviation, since a fair, transparent and non-discriminatory system for allocating capacity at those airports for which demand exceeds supply is essential to give substance to the freedom for European air carriers to provide intra-EU air services, as set out in the relevant European legislation.

39. Therefore, the proposal complies with the subsidiarity principle.

3.5. Proportionality principle

40. The additional burden for economic operators, slot coordinators and national authorities is limited to that necessary to ensure non-discriminatory slot allocation and optimal allocation of scarce capacity at the most congested airports in Europe.

3.6. Choice of instruments

41. Proposed instrument: Regulation.

42. The legal instrument would have to be of general application. It contains a number of obligations that are directly applicable to airport coordinators, air carriers and to entities responsible for airport and airspace management in Europe together with the Commission. Therefore, the most appropriate legal instrument is a Regulation, since alternative options would not be sufficient to achieve the proposed objectives.

4. BUDGETARY IMPLICATIONS

43. The proposal has no implications for the EU budget.

5. OPTIONAL ELEMENTS

5.1. Simplification

44. The proposal provides for simplification of legislation, since it recasts the Slot Regulation to incorporate existing amendments to the Regulation and the amendments contained in the current proposal.

5.2. Repeal of existing legislation

45. Adoption of the proposal will lead to the repeal of the existing Slot Regulation.

5.3. European Economic Area

46. The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

2011/0391 (COD)

↓ 95/93 (adapted)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on common rules for the allocation of slots at ~~Community~~ ⌦<LWCR:QUOTE:Ö> European Union ⌫<LWCR:QUOTE:Õ> airports

(Recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ~~establishing the European Economic Community~~ ⌦ on the Functioning of the European Union ⌫, and in particular Article ⌦ 100(2) ⌫, thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[11],

Having regard to the opinion of the Committee of the Regions[12],

Acting in accordance with the ordinary legislative procedure,

Whereas:

⇩ new

(1) Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports[13] has been substantially amended several times[14]. Since further amendments are to be made, it should be recast in the interests of clarity.

[11] OJ C […], […], p. […].
[12] OJ C […], […], p. […].
[13] OJ L 14, 22.1.1993, p. 1.
[14] See Annex I.

(2) Regulation (EEC) No 95/93 made a decisive contribution to the achievement of the internal market in aviation and to the development of relations between the European Union, its Member States and third countries, by ensuring access to the Union's congested airports on the basis of neutral, transparent and non-discriminatory rules.

↓ 95/93 recital 1 (adapted)

(3) ⌦ However, ⌫ ~~T~~there is a growing imbalance between the expansion of the air transport system in Europe and the availability of ⌦ certain airport infrastructures ⌫ ~~airport infrastructure~~ to meet that demand. There is, as a result, an increasing number of congested airports in ~~the Community~~ ⌦ the Union ⌫.

⇩ new

(4) The slot allocation system established in 1993 does not ensure the optimum allocation and use of slots and thus of airport capacity. In the context of growing airport congestion and the limited development of major new airport infrastructure, the slots are a rare resource. Access to such resources is of crucial importance for the provision of air transport services and for the maintenance of effective competition. To this end, the allocation and use of slots could be made more effective by introducing market 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. At the same time, although the historical slots meet the need for stability in schedules for the airlines, during the future assessment of the application of this Regulation, a gradual introduction of other market mechanisms could be envisaged, such as withdrawing and auctioning historical slots.

(5) It is therefore necessary to amend the slot allocation system at the Union's airports.

↓ 95/93 recital 2 (adapted)

(6) The allocation of slots at congested airports should ⌦ continue to ⌫ be based on neutral, transparent and non-discriminatory rules.

⇩ new

(7) The current slot allocation system should be adapted to the development of the market mechanisms used in certain airports for transferring or exchanging slots. In its Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Regulation No 95/93 on common rules for the allocation of slots at Community airports[15], the

[15] COM(2008)227.

Commission undertook to make an appropriate proposal if it became apparent that revision of the existing legislation was required for competition or other reasons.

(8) Experience has shown that secondary trading, that is the exchange of slots for financial or other compensation, does not benefit from a uniform and consistent legislative framework, including guarantees of transparency and competitive safeguards. It is therefore necessary to regulate secondary trading in slots in the European Union.

↓ 95/93 recital 6
⇨ new

(9) Transparency of information is an essential element for ensuring an objective procedure for slot allocation. ⇨ It is necessary to enhance this transparency and take account of technological progress. ⇦

↓ 95/93 recital 10 (adapted)
⇨ new

(10) Provisions to allow new entrants into the ~~Community~~ ⌦ Union ⌫ market ⌦ should be laid down ⌫. ⇨Experience shows that the current definition of new entrant has not succeeded in promoting competition to the full and that it should therefore be duly amended. Furthermore, it is necessary to combat abuses by limiting the possibility for an operator to attain the status of a new entrant if, together with its parent company, its own subsidiaries or subsidiaries of its parent company, it holds more than 10 % of the total number of slots allocated on the day in question in a given airport. Likewise, an air carrier should not be considered as a new entrant if it has transferred slots obtained as a new entrant in order to invoke this status again. ⇦

⇩ new

(11) The priority given to an air carrier requesting a series of slots in an airport for a non-stop scheduled passenger service between that airport and a regional airport should be abolished, since this situation is already covered by the priority given to an air carrier requesting the allocation of a series of slots for a regular non-stop scheduled passenger service between two Union airports.

↓ 95/93 recital 12 (adapted)

(12) ~~It is also necessary to avoid situations~~⌦ Situations ⌫ where, owing to a lack of available slots, the benefits of liberalisation are unevenly spread and competition is distorted, ⌦ should also be avoided ⌫.

⇩ new

(13) The progress made in implementing the Single European Sky has a major impact on the slot allocation process. The imposition of performance plans, which make the airports, the air navigation service providers and airspace users subject to performance improvement and monitoring measures, and the network management function, based on the establishment of a European network of routes and a central air traffic management, means it is necessary to update the slot allocation rules. It is therefore necessary to create an adequate framework allowing the network manager, the performance rewiew body and the national supervisory authorities to participate in the procedure of setting the airport capacity and coordination parameters. A new category of airports of importance to this network should also be created with a view to allowing the network to react better in crisis situations.

(14) The flight plans and the slots should be better matched to better exploit airport capacity and improve flight punctuality.

🡻 95/93 recital 5 (adapted)
⇨ new

(15) The Member State responsible for the ⌦ schedules facilitated or ⌫ coordinated airport should ensure the appointment of a ⌦ schedules facilitator or a ⌫ coordinator whose neutrality should be unquestioned. ⇨To this end, the coordinators' role should be enhanced. Provision should be made for the legal, organisational, decision-making and financial independence of the coordinators with regard to stakeholders, the Member State and bodies subordinate to that State. To prevent the coordinator's activity suffering from a lack of financial, technical or human resources or expertise, Member States should ensure that the coordinators have all the resources needed for their work. ⇦

⇩ new

(16) Additional obligations should be introduced for air carriers with regard to sending information to the coordinators. Provision should be made for additional penalties for omitting information or sending false or misleading information. For airports belonging to the network, the air carriers should have the obligation to communicate their flight intentions or other relevant information requested by the coordinator or schedules facilitator.

(17) The Union should facilitate cooperation between the coordinators and schedules facilitators to allow them to exchange best practices with a view to the establishment of a European coordinator in due course.

↓95/93 recital 4 (adapted)

(18) ~~Under certain conditions, in order to facilitate operations, a Member State should be able to designate~~ A~~a~~n airport ⌦ may be designated ⌫ as coordinated provided that principles of transparency, neutrality and non-discrimination are followed ⌦ and subject to the conditions laid down in this Regulation ⌫.

↓95/93 recital 3 (adapted)
⇨ new

(19) ~~The requirement of neutrality is best guaranteed when t~~The decision to coordinate an airport ~~is~~ ⌦ should be ⌫ taken by the Member State responsible for that airport on the basis of objective criteria. ⇨ Given the progress made in implementing the Single European Sky and the network manager function, it is useful to reconcile the methods for evaluating airport capacity to ensure better functioning of the European air traffic management network.⇦

⇩ new

(20) Provision must be made for a procedure by which a Member State decides to modify the designation of a coordinated airport or a schedules facilitated airport to make it a schedules facilitated airport or an airport with no designation status, respectively.

↓ 95/93 recital 7

~~The principles governing the existing system of slot allocation could be the basis of this Regulation provided that this system evolves in harmony with the evolution of new transport developments in the Community.~~

⇩ new

(21) The period of validity for a series of slots should be limited to the schedule planning period for which the series is granted. The priority for allocating a series of slots, even historical slots, should come from the allocation or confirmation by the coordinator.

↓ 95/93 recital 8

~~It is Community policy to facilitate competition and to encourage entrance into the market, as provided for in Council Regulation (EC) No 2408/92 of 23 July 1992 on access for~~

~~Community air carriers to intra-Community air routes[16], and whereas these objectives require strong support for carriers who intend to start operations on intra-Community routes.~~

↓ 95/93 recital 9

~~The existing system makes provision for grandfather rights.~~

↓ 95/93 recital 11 (adapted)
⇨ new

(22) It is necessary to ~~make~~ ⌦ retain ⌫ special provisions, under limited circumstances, for the maintenance of adequate domestic air services to regions of the Member State ⌦ or Member States ⌫ concerned ⇨ when a public service obligation has been imposed ⇦.

⇩ new

(23) Since the environmental aspects may be taken into account in the coordination parameters and regional connectivity can also be fully ensured in the context of the public service obligations, experience has not demonstrated the usefulness of local rules. Furthermore, it cannot be excluded that such rules do not lead to discrimination in allocating slots. Consequently, the option of resorting to local rules should be restricted. All the technical, operational, performance and environmental constraints that should be applied by the coordinators or the facilitators should be defined in the coordination parameters. Recourse to local rules would also be reduced to monitoring the use of slots and the possibility of reducing the length of the series of slots in the cases provided for by this Regulation. With a view to promoting better use of airport capacity, two basic principles in slot allocation should be reinforced, namely the definition of a series of slots and the calculation of historical slots. At the same time, the flexibility given to air carriers should be better regulated with a view to preventing distortions in the application of this Regulation in the Member States. Therefore, better use of airport capacity should be encouraged.

(24) To allow air carriers to adapt to imperative situations of urgency, such as a marked decline in traffic or an economic crisis that severely affects the activity of air carriers, affecting a lager part of the scheduling period, the Commission should be allowed to adopt urgent measures to ensure the consistency of measures to be taken at coordinated airports. These measures will allow air carriers to retain priority for the allocation of the same series for the following scheduling period even if the 85% rate has not been met.

(25) The role of the coordination committee should be strengthened in two ways. On the one hand, the network manager, the performance review body and the national supervisory authority should be invited to follow the committee's meetings. On the

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[16] ~~OJ L 240, 24.8.1992, p. 8.~~

other hand, the coordination committee's tasks could include making suggestions or giving advice to the coordinator and/or Member State on any issue concerning the airport capacity, in particular in relation to the implementation of the Single European Sky and the working of the European Air Traffic Management Network. The committee should also be able to provide the performance review body and the national supervisory authority with opinions concerning the link between the coordination parameters and the key performance indicators proposed to the air navigation service providers.

(26) Experience shows that a significant number of slots are returned to the pool too late to be reallocated effectively. The airport managing body should be encouraged to use the airport charges system to discourage this type of behaviour. Despite having recourse to this mechanism, the airport managing body should not, however, discourage air carriers from entering the market or developing services.

↓ 95/93 recital 13

~~It is desirable to make the best use of the existing slots in order to meet the objectives set out above.~~

↓ 95/93 recital 14 (adapted)

(27) It is desirable that third countries offer ~~Community~~ ⌦ Union ⌫ carriers equivalent treatment.

↓ 95/93 recital 15 (adapted)
⇨ new

(28) The application of the provisions of this Regulation ⌦ should ⌫ be without prejudice to the competition rules of the Treaty, in particular Articles ⌦ 101 ⌫, ~~and~~ ⌦ 102 ⌫ ⇨ and 106 ⇦.

↓ 95/93 recital 16 (adapted)

(29) ~~Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries, and such arrangements have yet to come into operation.~~ ⌦ The Ministerial Statement on Gibraltar Airport, agreed in Cordoba on 18 September 2006, during the first Ministerial meeting of the Forum of Dialogue on Gibraltar, will replace the Joint Declaration on the Airport made in London on 2 December 1987, and full compliance with it will be deemed to constitute compliance with the 1987 Declaration. ⌫

⇩ new

(30) The power to adopt delegated acts should be delegated to the Commission, in accordance with Article 290 of the Treaty on the Functioning of the European Union, in order to lay down the methods for developing a study on capacity and demand. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

(31) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

(32) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control, by Member States, of the Commission's exercise of implementing powers[17].

(33) The examination procedure should be used for the adoption of implementing instruments concerning the creation of a European coordinator, the template for the coordinator and schedules facilitator's annual activity report and the decision that one or more Member States should take measures with a view to remedying a third country's discriminatory behaviour with regard to the Union's air carriers.

(34) The Commission should adopt implementing acts that apply immediately, in accordance with the examination procedure, in duly justified cases linked to the need to ensure the continuation of historical slots, when required on imperative grounds of urgency.

🡻 95/93 recital 17

(35) This Regulation should be reviewed after a fixed period of operation to assess its functioning,

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⇩ new

(36) Since the objective of the action - namely more homogeneous application of Union legislation on slots - cannot be sufficiently achieved by the Member States because of the international character of air transport, and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

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[17] OJ L 55, 28.2.2011, p.13.

↓ 95/93 (adapted)

HAVE ADOPTED THIS REGULATION:

⌦ Scope and definitions ⌫

Article 1

Scope

↓ 793/2004 Art. 1, pt. 1 (adapted)

1. This Regulation shall apply to ~~Community~~ ⌦ European Union ⌫airports.

↓ 95/93 (adapted)

2. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom ⌦ of Great Britain and Northern Ireland ⌫ with regard to the dispute over sovereignty over the territory in which the airport is situated.

~~3. Application of the provisions of this Regulation to Gibraltar airport shall be suspended until the arrangements in the joint declarations made by the Foreign Ministers of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will so inform the Council of that date.~~

Article 2

Definitions

For the purpose of this Regulation:

↓ 793/2004 Art. 1.2(a)

~~(a~~1) 'slot' shall mean the permission given by a coordinator in accordance with this Regulation to use the full range of airport infrastructure necessary to operate an air service at a coordinated airport on a specific date and time for the purpose of landing or take-off as allocated by a coordinator in accordance with this Regulation;

~~(b~~2) 'new entrant' shall mean:

~~(i~~a) an air carrier requesting, as part of a series of slots, a slot at an airport on any day, where, if the carrier's request were accepted, it would in total hold fewer than five slots at that airport on that day; or

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↓ 793/2004 Art. 1.2(a) (adapted)
⇨ new

~~(ii~~b) an air carrier requesting a series of slots for a non-stop scheduled passenger service between two ~~Community~~ ⌦ European Union ⌫ airports, where at most two other air carriers operate the same non-stop scheduled service between those airports ~~or airport systems~~ on that day, and where, if the air carrier's request were accepted, the air carrier would nonetheless hold fewer than ⇨ nine ⇦ ~~five~~ slots at that airport on that day for that non-stop service. ~~or~~

~~(iii) an air carrier requesting a series of slots at an airport for a non-stop scheduled passenger service between that airport and a regional airport where no other air carrier operates a direct scheduled passenger service between those airports or airport systems on that day, where, if the air carrier's request were accepted, the air carrier would nonetheless hold fewer than five slots at that airport on that day for that non-stop service.~~

An air carrier ~~holding~~ ⇨ , which together with its parent company, its own subsidiaries or the subsidiaries of its parent company, holds ⇦ more than ~~5~~ ⇨ 10 ⇦ % of the total slots ⇨ allocated ⇦ ~~available~~ on the day in question at a particular airport ~~, or more than 4 % of the total slots available on the day in question in an airport system of which that airport forms part~~, shall not be considered as a new entrant at that airport;

⇩ new

An air carrier which transferred, within the meaning of Article 13, slots obtained as a new entrant to another air carrier in the same airport in order to be able to invoke again the status of a new entrant at that airport, shall not be considered as a new entrant at that airport;

↓ 95/93
⇨ new

~~(c) 'direct air service' shall mean a service between two airports including stopovers with the same aircraft and same flight number;~~

~~(d~~3) 'scheduling period' shall mean either the summer or winter season as used in the schedules of air carriers ⇨ , in accordance with the rules and guidelines established by the air transport section on a global basis ⇦ ;

↓ 95/93 (adapted)

~~(e~~4) '~~Community~~⊠ Union ⌫ air carrier' shall mean an air carrier with a ⊠ currently valid ⌫ operating licence issued by a Member State in accordance with Regulation (EC) No 1008/2008 of the European Parliament and of the Council;

↓ 793/2004 Art. 1.2(b) (adapted)
⇨ new

~~(f~~5) ~~(i)~~'air carrier' shall mean an air transport undertaking holding a ⊠ currently valid ⌫ operating licence or equivalent at the latest on 31 January for the following summer season or on 31 August for the following winter season; for the purposes of Articles ~~4~~5, ~~8~~9, ~~8a~~10 ⇨ , 11 ⇦ and ~~10~~13, the definition of 'air carrier' shall also include business aviation operators~~, when they operate according to a schedule~~; for the purposes of Articles 7, 17 and ~~14~~18; the definition of 'air carrier' shall also include all civil aircraft operators;

↓ 793/2004 Art. 1.2(b)

~~(ii~~6) 'group of air carriers' shall mean two or more air carriers which together perform joint operations, franchise operations or code-sharing for the purpose of operating a specific air service;

⇩ new

7) 'air navigation service provider' shall mean any air navigation service provider within the meaning of Article 2(5) of Regulation (EC) No 549/2004[18];

8) 'groundhandling service provider' shall mean any provider of groundhandling services within the meaning of Article […] of Regulation No […] (on groundhandling services); or any airport user within the meaning of Article […] of Regulation No […] (on groundhandling services) which self-handles within the meaning of Article […] of Regulation No […] (on groundhandling services);

9) 'airport belonging to the network' shall mean an airport which is not confronted with congestion problems but which, in the event of a sudden and significant increase in traffic or in the event of a sudden and significant reduction of its capacity, could have an impact on the functioning of the European air-traffic management network (hereinafter 'the network'), in accordance with Article 6 of Regulation (EC) No 551/2004 of the European Parliament and of the Council[19];

[18] OJ L 96, 31.3.2004, p. 1.
[19] OJ L 96, 31.3.2004, p. 20.

793/2004 Art. 1.2(c)

~~(i~~10) 'schedules facilitated airport' shall mean an airport where there is potential for congestion at certain periods of the day, week or year which is amenable to resolution by voluntary cooperation between air carriers and where a schedules facilitator has been appointed to facilitate the operations of air carriers operating services or intending to operate services at that airport;

793/2004 Art. 1.2(b)

~~(g~~11) 'coordinated airport' shall mean any airport where, in order to land or take off, it is necessary for an air carrier or any other aircraft operator to have been allocated a slot by a coordinator, with the exception of State flights, emergency landings and humanitarian flights;

95/93

~~(h) 'airport system' shall mean two or more airports grouped together and serving the same city or conurbation, as indicated in Annex II to Regulation (EEC) No 2408/92;~~

793/2004 Art. 1.2(c) (adapted)
⇨ new

~~(j~~12) 'managing body of an airport' shall mean the body which, in conjunction with other activities or otherwise, has the task under national laws or regulations of administering and managing the airport facilities and coordinating and controlling the activities of the various operators present at the airport~~ or within the airport system concerned~~;

~~(k~~13) 'series of slots' shall mean at least ⇨ 15 ⇦ ~~five~~ slots ~~having been requested~~ 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~~ regularly in the same scheduling period~~ ⇨ for consecutive weeks ⇦ and allocated ⌦ by the coordinator ⌫ ~~in~~ ⌦ on ⌫ that ⌦ basis ⌫ ~~way~~ or, if that is not possible, allocated at approximately the same time;

793/2004 Art. 1.2(c)

~~(l~~14) 'business aviation' shall mean that sector of general aviation which concerns the operation or use of aircraft by companies for the carriage of passengers or goods as an aid to the conduct of their business, where the aircraft are flown for purposes generally considered not for public hire and are piloted by individuals having, at a minimum, a valid commercial pilot licence with an instrument rating;

↓ 793/2004 Art. 1.2(c) (adapted)
⇨ new

(~~m~~15) 'coordination parameters' shall mean the expression, in operational terms, of all the capacity available for slot allocation at an airport during each ~~coordination~~ ⌦ scheduling ⌫ period ⇨ and the operational rules on capacity use ⇦, reflecting all technical, operational and environmental factors that affect the performance of the airport infrastructure and its different sub-systems.

⇩ new

16) 'flight plan' shall mean specific information provided to air traffic services units, relative to an intended flight or portion of a flight of an aircraft;

17) 'scheduled air services' shall mean a series of flights with the characteristics defined in Article 2(16) of Regulation (EC) No 1008/2008;

18) 'programmed non-scheduled air service' shall mean a series of flights which do not meet all the conditions of Article 2(16) of Regulation (EC) No 1008/2008, but which operate so regularly or frequently that they constitute a recognisably systematic series;

19) 'network manager' shall mean the body established under Article 6 of Regulation (EC) No 551/2004;

20) 'performance review body' shall mean the body established under Article 11 of Regulation (EC) No 549/2004;

21) 'national supervisory authority' shall mean the body or bodies nominated or established by Member States as their national authority pursuant to Article 4 of Regulation (EC) No 549/2004.

↓ 95/93 (adapted)
⇨ new

⌦ Designation of airports ⌫

Article 3

Conditions for airport coordination ⇨ or schedules facilitation ⇦

↓ 793/2004 Art.1.3(a) (adapted)

1. ⌦ Member States shall be under no obligation ⌫ to designate any airport as schedules facilitated or coordinated save in accordance with the provisions of this Article.

⌦ Member States shall not designate ⌫ an airport as coordinated save in accordance with the provisions of paragraph 3.

↓ 95/93
→1 793/2004 Art. 1.3(b)

2. A Member State may, however, provide for any airport to be designated as a →1 schedules facilitated airport ←, provided that principles of transparency, neutrality and non-discrimination are met.

↓ 793/2004 Art. 1.3(c)
⇨ new

3. The Member State responsible shall ensure that a thorough capacity ⇨ and demand ⇦analysis is carried out at an airport with no designation status ⇨, at an airport belonging to the European air traffic management network (hereinafter 'the network')⇦ or at a schedules facilitated airport by the managing body of that airport or by any other competent body when that Member State considers it necessary, or within six months:

(i) following a written request from air carriers representing more than half of the operations at an airport or from the managing body of the airport when either considers that capacity is insufficient for actual or planned operations at certain periods; or

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↓ 793/2004 Art. 1.3(c)
⇨ new

(ii) upon request from the Commission, in particular where ~~an airport is in reality accessible only for air carriers that have been allocated slots or where air carriers and in particular~~ new entrants encounter serious problems in securing landing and take off possibilities at the airport in question ⇨ , or when the network manager considers it necessary to ensure that the airport's operational plan is consistent with the network's operational plan, in accordance with Article 6(7) of Commission Regulation (EU) No 677/2011[20]⇦ .

[20] OJ L 185, 15.7.2011, p. 1.

🡻 793/2004 Art. 1.3(c)

This analysis~~, based on commonly recognised methods,~~ shall determine any shortfall in capacity, taking into account environmental constraints at the airport in question. The analysis shall consider the possibilities of overcoming such shortfall through new or modified infrastructure, operational changes, or any other change, and the time frame envisaged to resolve the problems.

⇩ new

The analysis is based on methods determined by a Commission delegated act, in accordance with Article 15 of this Regulation. The methods take account of the requirements of the network operational plan, as required by Annex V to Regulation (EU) No 677/2011.

🡻 793/2004 Art. 1.3(c) (adapted)
⇨ new

~~It~~ The analysis shall be updated if paragraph ~~5~~6 has been invoked, ~~or~~ when there are changes at the airport influencing significantly its capacity and capacity usage ⇨ or at the request of the coordination committee, the Member State or the Commission ⇦. Both the analysis and the method used shall be made available to the parties having requested the analysis and, upon request, to other interested parties. The analysis shall be communicated to the Commission at the same time.

🡻 793/2004 Art. 1.3(d)

4. On the basis of the analysis, the Member State shall consult on the capacity situation at the airport with the managing body of the airport, the air carriers using the airport regularly, their representative organisations, representatives of general aviation using the airport regularly and air traffic control authorities.

⇩ new

5. The Commission can ask the network manager to deliver an opinion on how the capacity is set in relation to the network operating needs. The Commission can make recommendations. The Member State shall give reasons for any decision that does not follow these recommendations. The decision shall be communicated to the Commission.

↓ 793/2004 Art. 1.3(d)
⇨ new

~~5~~6. Where capacity problems occur for at least one scheduling period, the Member State shall ensure that the airport is designated as coordinated for the relevant periods only if:

(a) the shortfall is of such a serious nature that significant delays cannot be avoided at the airport, and

(b) there are no possibilities of resolving these problems in the short term.

~~6~~7. By way of derogation from paragraph ~~5~~6(b), Member States may, in exceptional circumstances, designate as coordinated the airports affected for the appropriate period⇨ , which can be less than a scheduling period ⇦ .

⇩ new

By way of derogation from paragraphs 3, 4, 5 and 6, Member States may, in emergency situations, designate as coordinated the airports affected for the appropriate period.

8. If the updated analysis on capacity and demand in a coordinated or schedules facilitated airport shows that this airport has sufficient capacity to meet actual or planned operations, the Member State, after consulting the bodies mentioned in paragraph 4, may change its designation to a schedules facilitated airport or an airport with no designation status.

↓ 95/93
→1 793/2004 Art. 1.3(e)

→1 ~~7.~~ ←~~When a capacity sufficient to meet actual or planned operations is provided at a~~ →1 ~~coordinated airport~~ ←~~, its designation as a fully coordinated airport shall be lifted.~~

⇩ new

9. At the request of the Commission, which may act on its own initiative or on the initiative of the network manager, and after consulting the bodies mentioned in paragraph 4, the Member State shall ensure that an airport with no designation status be designated as belonging to the network. The decision shall be communicated to the Commission. If the Commission considers that the airport is no longer of importance for the network, the Member State, after consulting the bodies mentioned in paragraph 4, shall change the designation of the airport to that of an airport with no designation status.

10. If a decision is taken under paragraphs 6, 8 or 9, the Member State shall communicate it to the bodies mentioned in paragraph 4 no later than 1 April for the winter scheduling period and no later than 1 September for the summer scheduling period.

↓ 793/2004 Art. 1.5
⇨ new

Article ~~6~~ 4

Coordination parameters

1. At a coordinated ⇨ or schedules facilitated ⇦ airport, the Member State responsible shall ensure the determination of the ⇨ coordination ⇦ parameters ~~for slot allocation~~ twice yearly, while taking account of all relevant technical, operational⇨ , performance ⇦ and environmental constraints as well as any changes thereto. ⇨ These constraints shall be notified to the Commission. The Commission, if necessary with the aid of the network manager, shall examine the constraints and deliver recommendations which the Member State must take into account before determining the coordination parameters. ⇦

This exercise shall be based on an objective analysis of the possibilities of accommodating the air traffic, taking into account the different types of traffic at the airport, the airspace congestion likely to occur during the coordination period and the capacity situation.

~~3~~2. The determination of the parameters and the methodology used as well as any changes thereto shall be discussed in detail within the coordination committee with a view to increasing the capacity and number of slots available for allocation, before a final decision on the ⇨ coordination ⇦ parameters ~~for slot allocation~~ is taken. All relevant documents shall be made available on request to interested parties.

⇩ new

3. The determination of the coordination parameters shall not affect the neutral and non-discriminatory character of the slot allocation.

↓ 793/2004 Art. 1.5
⇨ new

4. The parameters shall be communicated to the airport coordinator in good time before initial slot ⇨ filing ⇦ ~~allocation takes place~~ for the purpose of scheduling conferences.

~~2~~5. For the purpose of the exercise referred to in paragraph 1, where the Member State does not do so, the coordinator shall define relevant coordination time intervals after consultation of the coordination committee and in conformity with the established capacity.

↓ 95/93 (adapted)

⌦Organisation of coordination, schedules facilitation and data collection activities ⌫

Article ~~4~~ 5

↓ 793/2004 Art. 1.4(a)

The schedules facilitator and the coordinator

↓ 793/2004 Art. 1.4(b) (adapted)
⇨ new

1. The Member State responsible for an airport ⇨ belonging to the network ⇦ , a schedules facilitated or coordinated airport shall ensure the appointment of a qualified natural or legal person as schedules facilitator or airport coordinator, ~~respectively~~ after having consulted the air carriers using the airport regularly, their representative organisations and the managing body of the airport and the coordination committee, where such a committee exists. The same schedules facilitator or coordinator may be appointed for more than one airport.

⇩ new

2. Member States shall encourage close cooperation between the coordinators and schedules facilitators to develop common projects at a European level. In light of the progress of these projects, the progress made in implementing the Single European Sky and the results of the evaluation report mentioned in Article 21, the Commission shall adopt implementing acts for creating a European coordinator. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2). The principles governing the coordinator's independence in paragraph 3 of this Article apply *mutatis mutandis* to the European coordinator.

↓ 793/2004 Art. 1.4(b) (adapted)
⇨ new

~~2~~3. The Member State responsible for a schedules facilitated or coordinated airport shall ensure:

(a) that at a schedules facilitated airport, the schedules facilitator acts under this Regulation in an independent, neutral, non-discriminatory and transparent manner;

(b) ⌦ that, ⌫ ~~the independence of the coordinator~~ at a coordinated airport ~~by separating the coordinator functionally~~ ⌦ , the coordinator ⌫ ⇨ shall be independent in legal, organisational and decision-making terms of ⇦ ~~from~~ any single interested party, ⇨ of the Member State and bodies under the jurisdiction of that State; this means that: ⇦

⇩ new

(i) 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;

(ii) in organisational and decision-making terms, the coordinator shall act autonomously in relation to the Member State, the airport managing body, service providers, airlines operating from the airport in question; it shall not receive instructions from them nor be obliged to report to them, with the exception of the Member State; it shall not be part of structures that are directly or indirectly responsible for their daily management and have executive decision-making powers with regard to the assets required for its function. The Member States shall ensure that the coordinator's professional interests are taken into consideration in such a way as to allow the coordinator to operate in complete independence;

🡻 793/2004 Art. 1.4(b)

(c) ~~T~~the system of financing the coordinator's activities shall be such as to guarantee the coordinator's independent status.

(~~c~~d) ~~that~~ the coordinator acts according to this Regulation in a neutral, non-discriminatory and transparent way.

⇩ new

The financing referred to under point (c) shall be provided by the air carriers who operate in the coordinated airports and by the 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. The Member States shall ensure that the financial, human, technical and material resources and expertise required by the coordinator for carrying out his duties are at its disposal at all times.

🡻 793/2004 Art. 1.4(b) (adapted)

~~3~~4. The schedules facilitator and the coordinator shall participate in ~~such international~~ scheduling conferences of air carriers ⌦ at international level ⌫ ~~as are permitted by~~ ⌦ in accordance with ⌫ ~~Community~~ ⌦ Union ⌫ law.

↓ 793/2004 Art. 1.4(b)
⇨ new

~~4~~5. The schedules facilitator shall advise air carriers and recommend alternative arrival and/or departure times when congestion is likely to occur.

~~5~~6. The coordinator shall be the sole person responsible for the allocation of slots. He shall allocate the slots in accordance with the provisions of this Regulation and shall make provision so that, in an emergency, slots can also be allocated outside office hours.

~~6~~7. The schedules facilitator shall monitor the conformity of air carriers' operations with the schedules recommended to them.

The coordinator shall monitor the conformity of air carriers' operations with the slots allocated to them. These conformity checks shall be carried out in cooperation with the managing body of the airport and with the air traffic control authorities and shall take into account the time and other relevant parameters relating to the airport concerned.

~~7.~~ All schedules facilitators and coordinators shall cooperate to detect inconsistencies in schedules ⇨ and to encourage air carriers to resolve them ⇦.

↓ 793/2004 Art. 1.4(b) (adapted)
⇨ new

Article 6

⌦ Transparency of coordination activities and schedules facilitation ⌫

1. ⇨ At the end of each scheduling period, ⇦ ~~T~~the coordinator ⇨ or schedules facilitator ⇦ shall submit ~~on request~~ to the Member States concerned and to the Commission an ~~annual~~ activity report ⇨ describing the general slot allocation and/or schedules facilitation situation, examining ⇦, ~~concerning~~, in particular, the application of ⌦ Article ⌫ ⇨ 9(5) and Articles ⇦~~8a~~13 and ~~14~~ 18, as well as any complaints regarding the application of Articles ~~8~~9 and 10 submitted to the coordination committee and the steps taken to resolve them. ⇨ The report shall also contain the results of a survey conducted among the interested parties on the quality of services provided by the coordinator. ⇦

⇩ new

2. The Commission may adopt a template for the activity report mentioned in paragraph 1. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).

↓ 95/93
→1 793/2004 Art. 1.4(c)

→1 ~~8. The coordinator shall on request and within a reasonable time make available free of charge for review to interested parties, in particular to members or observers of the coordination committee, either in written form or in any other easily accessible form, the following information:~~ ←

⇩ new

3. The coordinator shall maintain an up-to-date, freely-accessible electronic database, containing the following information:

↓ 95/93

(a) historical slots by airline, chronologically, for all air carriers at the airport;

↓ 95/93 (adapted)

(b) requested slots ~~(initial submissions)~~ by air carriers and chronologically for all air carriers;

↓ 95/93
⇨ new

(c) all allocated slots, and outstanding slot requests, listed individually in chronological order, by air carriers, for all air carriers;

(d) remaining available slots ⇨ with respect to each type of constraint taken into consideration in the coordination parameters. The database shall allow the air carriers to verify the availability of slots corresponding to their requests ⇦;

⇩ new

(e) slots transferred or exchanged, indicating the identity of the air carriers involved and whether the transfer or exchange was made for compensation of a financial or other nature. Aggregate data on financial compensation shall be published each year;

↓ 95/93
⇨ new

~~(~~ef) full details on the ~~criteria being used in the allocation~~ ⇨ coordination parameters ⇦.

⇩ new

This information shall be updated regularly. At the end of each season, the coordinator shall publish the activity report mentioned in paragraph 1.

4. The coordinator shall ensure that the data are stored and remain accessible for at least five consecutive equivalent scheduling periods.

↓ 793/2004 Art. 1.4(d)

~~9. The information referred to in paragraph 8 shall be made available at the time of the relevant scheduling conferences at the latest and as appropriate during the conferences and thereafter. On request, the coordinator shall provide such information in a summarised format. A cost-related fee may be charged for the provision of such summarised information.~~

↓ 793/2004 Art. 1.4(e) (adapted)
⇨ new

~~10~~5. Where relevant and generally accepted ~~schedules information~~ standards ⇨ on the format of ⇦ ⌦ schedules information ⌫ are available, the schedules facilitator, the coordinator and the air carriers shall apply them provided that they comply with ~~Community~~ Union law.

↓ 793/2004 Art. 1.5 (adapted)
⇨ new

Article 7

Information for schedules facilitators and coordinators

1. Air carriers operating or intending to operate at a schedules facilitated or coordinated airport ⇨ belonging to the network ⇦ shall submit to the schedules facilitator or coordinator~~, respectively,~~ all relevant information requested by them. ⇨If this information changes, the air carriers shall inform the schedules facilitator and the coordinator as soon as possible. ⇦ All relevant information shall be provided in the format and within the time-limit specified by the schedules facilitator or coordinator. In particular, an air carrier shall inform the coordinator, at the time of the request for allocation, whether it would benefit from the status of new entrant, in accordance with Article 2(2), in respect of requested slots.

↓ 793/2004 Art. 1.5 (adapted)
⇨ new

For all other airports with no particular designation status, ⇨ the air carriers operating or intending to operate from that airport, ⇦ the managing body of the airport⇨ , the groundhandling service providers and the air navigation service providers ⇦ shall provide, when requested by a coordinator, any information in ~~its~~ ⌦ their ⌫ possession about the planned services of air carriers.

⇩ new

On request from the network manager, the schedules facilitator and the coordinator shall send it all the information referred to in this paragraph.

↓ 793/2004 Art. 1.5
⇨ new

2. Where an air carrier fails to provide the information referred to in paragraph 1, unless it can satisfactorily demonstrate that mitigating circumstances exist, or provides false or misleading information, the coordinator shall not take into consideration the slot request or requests by that air carrier to which the missing, false or misleading information relates. ⇨ It shall withdraw the series of slots if they were already allocated and/or recommend that penalties be imposed by the competent body under national law. ⇦ The coordinator shall give that air carrier the opportunity to submit its observations.

3. The schedules facilitator or the coordinator, the managing body of the airport and the air traffic control authorities shall exchange all the information they require for the exercise of their respective duties, including flight data and slots⇨ , in particular with a view to ensuring the application of Article 17 ⇦.

↓ 793/2004 Art. 1.5 (adapted)
⇨ new

Article ~~5~~ 8

Coordination committee

1. 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. Membership of this committee shall be open at least to the air carriers using the airport(s) in question regularly and their representative organisations, the managing body of the airport concerned, the relevant air traffic control authorities, ~~and~~ the representatives of general aviation using the airport regularly⇨ , the network manager, the performance review body and the national supervisory authority of the Member State concerned ⇦.

↓ 793/2004 Art. 1.5
⇨ new

The tasks of the coordination committee shall be:

(a) to make proposals concerning or advise the coordinator and/or the Member State on:

(i) the possibilities for increasing the capacity of the airport determined in accordance with Article 3 or for improving its usage;

(ii) the coordination parameters to be determined in accordance with Article ~~6~~4;

(iii) the methods of monitoring the use of allocated slots;

(iv) local guidelines ~~for the allocation of slots or the monitoring of the use of allocated slots, taking into account, inter alia, possible environmental concerns,~~ as provided for in Article ~~8~~9(~~5~~8);

(v) ⇨ factors affecting the ⇦ ~~improvements to~~ traffic conditions prevailing at the airport in question;

(vi) serious problems encountered by new entrants, as provided for in Article ~~10~~9(~~9~~6);

(vii) any issue concerning the airport capacity ⇨ , in particular in relation to the implementation of the Single European Sky and the operation of the network ⇦ ;

⇩ new

(b) to provide the performance review body and the national supervisory authority with opinions concerning the link between the coordination parameters and the key performance indicators proposed to the air navigation service providers as defined by Commission Regulation (EU) No 691/2010.

↓ 793/2004 Art. 1.5
⇨ new

(~~b~~c) to mediate between all parties concerned on complaints on the allocation of slots, as provided for in Article ~~11~~19.

2. Member State representatives and the coordinator shall be invited to the meetings of the coordination committee as observers. ⇨ On its request, the Commission may participate in these meetings. ⇦

3. The coordination committee shall draw up written rules of procedure covering, inter alia participation, elections, the frequency of meetings, and language(s) used.

Any member of the coordination committee may propose local guidelines as provided for in Article ~~8~~9(~~5~~8). At the request of the coordinator, the coordination committee shall discuss suggested local guidelines~~ for the allocation of slots as well as those suggested for the monitoring of the use of allocated slots~~. A report of the discussions in the coordination committee shall be submitted to the Member State concerned with an indication of the respective positions stated within the committee. ⇨ This report shall also be communicated to the performance review body and the network manager ⇦.

↓ 95/93 (adapted)

⌦ Allocation of slots ⌫

↓ 793/2004 Art. 1.6
⇨ new

Article ~~10~~9

Slot pool

1. The coordinator shall set up a pool, which shall contain all the slots~~ not allocated on the basis of Article 8(2) and (4)~~. All new slot capacity determined pursuant to Article 3(3) shall be placed in the pool.

~~2. 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.~~

~~6~~2. Without prejudice to Article ~~8~~10(2) ⇨ and (3) ⇦of this Regulation and without prejudice to Article 19(2) of Regulation (EC) No 1008/2008, 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 preference given to new entrants shall be respected during the entire scheduling period. ⇦ 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 under ~~both~~ Article 2(~~b~~2)(~~i) and~~ (~~ii~~b)~~, or Article 2(b)(i) and (iii)~~.

↓ 793/2004 Art. 1.5 (adapted)

3. Without prejudice to Article 10(2), in a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, preference shall be given to

commercial air services and in particular to scheduled ⌦ air ⌫ services and programmed non-scheduled air services. In the case of competing requests within the same category of services, priority shall be given for year round operations.

↓ 793/2004 Art. 1.6
⇨ new

~~7~~4. 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 ⇨ series during the ⇦ scheduling period.

~~8~~5. In the case of services operated by a group of air carriers, only one of the participating air carriers can apply for the required slots. The air carrier operating such a service accepts responsibility for meeting the operating criteria required to ⇨ benefit from the priority ⇦ ~~maintain historical precedence~~ referred to in Article ~~8~~10(2).

↓ 793/2004 Art. 1.6 (adapted)
⇨ new

Slots allocated to one air carrier may be used by (an)other air carrier(s) ~~participating in a joint operation~~ ⇨ belonging to a group of air carriers ⇦, 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. Upon discontinuation of such operations, the slots so used will remain with the air carrier to whom they were initially allocated. ~~Air carriers involved in shared operations shall advise coordinators of the detail of such operations prior to the beginning of s~~Such operations ⌦ shall be notified to the coordinator by the air carriers belonging to the group ⌫ ⇨ and may not begin prior to the express confirmation by the coordinator ⇦.

⇩ new

If a series of slots allocated to an air carrier is used by another air carrier outside the conditions of this paragraph, the coordinator shall withdraw the series and return it to the pool after consulting the carriers concerned.

↓ 793/2004 Art. 1.6

~~9~~6. If serious problems continue to exist for new entrants, the Member State shall ensure that a meeting of the airport coordination committee is convened. The purpose of the meeting shall be to examine possibilities for remedying the situation. The Commission shall be invited to that meeting.

↓ 793/2004 Art. 1.5

~~6~~7. If a requested slot cannot be accommodated, the coordinator shall inform the requesting air carrier of the reasons therefore and shall indicate the nearest available alternative slot.

↓ 793/2004 Art. 1.5 (adapted)
⇨ new

~~5~~8. The coordinator shall also take into account additional ~~rules and~~ guidelines established by the air transport industry ~~Community~~ ⌦ Union ⌫-wide or world-wide as well as local guidelines proposed by the coordination committee and approved by the Member State or any other competent body responsible for the airport in question, provided that such ~~rules and~~ guidelines do not affect the independent status of the coordinator, comply with ~~Community~~ ⌦ Union ⌫ law, ~~and~~ aim at improving the efficient use of airport capacity ⇨ and have been notified in advance to and pre-approved by the Commission ⇦. ~~These rules shall be communicated by the Member State in question to the Commission.~~

⇩ new

The local guidelines may 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. The reduction of the length of the series of slots applies only at airports where demand for air services is highly seasonable.

↓ 793/2004 Art. 1.5 (adapted)

~~7~~9. The coordinator shall, in addition to the planned slot allocation for the scheduling period, endeavour to accommodate single slot requests with short notice for any type of aviation, including general aviation. To this end, slots remaining in the pool ~~referred to in Article 10~~ after distribution among the applicant carriers and slots available at short notice may be used.

Article ~~8~~10

~~Process of~~ ⌦ Historical ⌫ slot~~s~~ ~~allocation~~

↓ 793/2004 Art. 1.5

1. 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 as set up according to the provisions of Article ~~10~~9.

793/2004 Art. 1.5 (adapted) ⇨ new

2. Without prejudice to Articles 7, ~~8a, 9,~~ ~~10(1)~~ 12, 13 and ~~14~~17, ~~paragraph (1) of this Article shall not apply~~ ⇨ priority is to be given to the air carrier concerned for the allocation of the same series during the following equivalent scheduling period, if that air carrier so requests within the time-limit mentioned in Article 7(1), if ⇦ ~~when~~ the following conditions are satisfied:

(a) a series of slots has been used by ~~an~~ ⌦ that ⌫ air carrier for the operation of scheduled and programmed non-scheduled air services, and

(b) that air carrier can demonstrate to the satisfaction of the coordinator that the series of slots in question has been operated, as cleared by the coordinator, by that air carrier for at least ~~80~~ ⇨ 85 ⇦ % of the time during the scheduling period for which it has been allocated.

~~In such case that series of slots shall entitle the air carrier concerned to the same series of slots in the next equivalent scheduling period, if requested by that air carrier within the time-limit referred to in Article 7(1).~~

~~4~~3. Re-timing of series of slots before the allocation of the remaining slots from the pool referred to in Article 9 to the other applicant air carriers shall be accepted only for operational reasons ⇨ such as, changes in the type of aircraft used or route operated by the air carrier ⇦ ~~or if slot timings of applicant air carriers would be improved in relation to the timings initially requested~~. It shall not take effect ~~prior to the express confirmation~~ until expressly confirmed by the coordinator.

793/2004 Art. 1.6 ⇨ new

~~3~~4. 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 ⇨ provided that the remaining allocated slots constitute a series within the meaning of Article 2(13) ⇦.

⇩ new

Slots coinciding with public holidays shall be incorporated into the series for the following season without any need to justify their non-use.

↓ 793/2004 Art. 1.6 (adapted)
⇨ new

~~4~~5. If the ~~80~~ ⇨ 85 ⇦ % usage of the series of slots cannot be demonstrated, ⇨ the priority provided under paragraph (2) shall not be given ⇦ ~~all the slots constituting that series shall be placed in the slot pool~~, unless the non-utilisation can be justified on the basis of any of the following reasons:

(a) unforeseeable and unavoidable circumstances outside the air carrier's control leading to:

(i) grounding of the aircraft type generally used for the air service in question;

(ii) ⇨ total or partial ⇦ closure of an airport or airspace;

(iii) serious disturbance of operations at the airports concerned, including those series of slots at other ~~Community~~ ⌦ Union ⌫ airports related to routes which have been affected by such disturbance, during a substantial part of the relevant scheduling period;

(b) ⌦ an ⌫ interruption of air services due to action intended to affect these services⇨ , for example, in the event of a strike ⇦ which makes it practically and/or technically impossible for the air carrier to carry out operations as planned;

(c) serious financial difficulties of the ~~Community~~ ⌦ Union ⌫ air carrier concerned, resulting in the granting of a temporary licence by the licensing authorities pending financial reorganisation of the air carrier in accordance with Article 9(1) of Regulation (EC) No 1008/2008;

(d) judicial proceedings concerning the application of Article 12 for routes where public service obligations have been imposed ~~according to~~ in accordance with Article 16 of Regulation (EC) No 1008/2008 resulting in the temporary suspension of the operation of such routes.

⇩ new

A ban on operating in the European Union adopted on the basis of Commission Regulation (EC) No 474/2006[21] cannot be accepted as a justification for the non-use of the series of slots within the meaning of this paragraph.

↓ 793/2004 Art. 1.6

~~5~~6. At the request of a Member State or on its own initiative, the Commission shall examine the application of paragraph ~~4~~5 by the coordinator to an airport falling within the scope of this Regulation.

[21] OJ L 84, 23.3.2006, p. 14.

It shall take a decision within two months of receipt of the request in accordance with the procedure referred to in Article ~~13~~16(2).

⇩ new

7. If the conditions set out in paragraph (2)(a) and (b) are not met, the Commission may however decide that priority for the allocation of the same series should be awarded to the air carriers for the following scheduling period, if this is justified on imperative grounds of urgency linked to exceptional events requiring coherence in the application of measures to be taken in these airports. The Commission shall adopt the necessary measures, the application of which shall not exceed the length of one scheduling period. It shall adopt these immediately applicable implementing acts in accordance with the procedure referred to in Article 16(3).

🡻 793/2004 Art. 1.5 (adapted)
⇨ new

~~*Article 8b*~~

~~**Exclusion of compensation claims**~~

8. ⇨ The priority for a⇦ ~~The entitlement to~~ series of slots referred to in ~~Article 8~~(2) of this Article shall not give rise to any claims for compensation in respect of any limitation, restriction or elimination of ⇨ this priority ⇦ ~~thereof~~ imposed under ~~Community~~ ⌦ Union ⌫ law, in particular in application of the rules of the Treaty relating to air transport.

⇩ new

Article 11

Slot reservation

1. The managing body of a coordinated airport may decide to use the airport charges system with the aim of dissuading air carriers from belatedly returning slots to the pool referred to in Article 9 and to hold them liable for having reserved airport infrastructure without using it. The following principles shall be respected:

(a) the procedure set out under Article 6 of Directive 2009/12/EC of the European Parliament and of the Council[22] shall be observed before this decision is taken. The coordinator shall also be consulted. For coordinated airports not covered by Article 1(2) of Directive 2009/12/EC, the airport managing body shall consult the coordination committee and the coordinator;

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[22] OJ L 70, 14.3.2009, p. 11.

(b) this decision shall not affect the non-discriminatory and transparent character of the slot allocation process and the system of airport charges;

(c) this decision shall not discourage air carriers from developing services or entering the market and it shall be limited to covering the costs incurred by the airport for reserving the airport capacity corresponding to the slots which remained unused;

(d) air carriers shall not be held liable for having reserved airport infrastructure without using it for slots allocated but returned to the pool before 31 January for the following summer scheduling period or before 31 August for the following winter scheduling period, for slots coinciding with public holidays and returned to the pool before the same dates and for slots for which the non-use can be justified on the basis of Article 10(5);

(e) this decision shall be communicated to the coordinator, the interested parties and the Commission at least six months before the start of the scheduling season concerned.

2. The coordinator shall send the airport managing body all the information necessary for the implementation of the decision referred to in the first paragraph.

↓ 793/2004 Art. 1.5

Article ~~9~~12

Public service obligations

1. Where public service obligations have been imposed on a route in accordance with Article 16 of Regulation (EC) No 1008/2008, a Member State may reserve the slots required for the operations envisaged on that route at a coordinated airport. If the reserved slots on the route concerned are not used, they shall be made available to any other air carrier interested in operating the route in accordance with the public service obligations, subject to paragraph 2. If no other carrier is interested in operating the route and the Member State concerned does not issue a call for tenders under Article 16(10), Article 17(3) to (7), and Article 18(1) of Regulation (EC) No 1008/2008, the slots shall either be reserved for another route subject to public service obligations or be returned to the pool.

↓ 793/2004 Art. 1.5 (adapted)

2. The tender procedure established in Article 16(10), Article 17(3) to (7) and Article 18(1) of Regulation (EC) No 1008/2008 shall be applied for the use of the slots referred to in paragraph 1 of this Article if more than one ~~Community~~ ⌦ Union ⌫ air carrier is interested in serving the route and has not been able to obtain slots within one hour before or after the times requested from the coordinator.

↓ 793/2004 Art. 1.5 (adapted)

⌦Slot mobility ⌫

Article ~~8d~~ 13

Slot ~~mobility~~ ⌦ transfers and exchanges ⌫

↓ 793/2004 Art. 1.5
⇨ new

1. Slots may be:

(a) 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;

(b) transferred~~:~~ ⇨ between two air carriers, with or without monetary or any other kind of compensation; ⇦

~~(i) between parent and subsidiary companies, and between subsidiaries of the same parent company;~~

~~(ii) as part of the acquisition of control over the capital of an air carrier;~~

~~(iii) in the case of a total or partial take-over when the slots are directly related to the air carrier taken over;~~

(c) exchanged, one for one, between air carriers, ⇨ with or without monetary or any other kind of compensation ⇦.

⇩ new

2. The Member State shall establish a transparent framework to allow contact between air carriers interested in transferring or exchanging slots in conformity with Union law.

↓ 793/2004 Art. 1.5 (adapted)
⇨ new

~~2.~~ The transfers or exchanges referred to in paragraph 1 shall be notified to the coordinator and shall not take effect ~~prior to the express confirmation~~ ⌦ until expressly confirmed ⌫ by the coordinator. The coordinator shall decline to confirm the transfers or exchanges if they are not in conformity with the requirements of this Regulation and if the coordinator is not satisfied that:

(a) airport operations would not be prejudiced, taking into account all technical, operational ⇨ , performance ⇦ and environmental constraints;

(b) limitations imposed ~~according to~~ ⌦ in accordance with ⌫Article ~~9~~12 are respected;

(c) a transfer of slots does not fall within the scope of paragraph 3 ⌦ of this Article ⌫.

⇩ new

For the transfers or exchanges referred to in paragraph 1(b) and (c), the air carriers shall give the coordinator the details of any monetary or any other kind of compensation. The details regarding compensation for the transfers or exchanges are confidential and the coordinator shall only divulge such details to the Member State where the airport is situated or the Commission, upon their request. The transfers or exchanges may not be subject to conditions intended to limit the possibility for the air carrier wishing to obtain the slots to enter into competition with the air carrier which transfers or exchanges the slots.

↓ 793/2004 Art. 1.5

3. Slots allocated to a new entrant as defined in Article 2(2) may not be transferred as provided for in paragraph 1(b) of this Article for a period of two equivalent scheduling periods, except in the case of a legally authorised takeover of the activities of a bankrupt undertaking.

Slots allocated to a new entrant as defined in Article 2~~(b)(ii~~(2)(b) ~~and (iii)~~ may not be transferred to another route as provided for in paragraph 1(a) of this Article for a period of two equivalent scheduling periods unless the new entrant would have been treated with the same priority on the new route as on the initial route.

Slots allocated to a new entrant as defined in Article 2(~~b~~2) may not be exchanged as provided for in paragraph 1(c) of this Article for a period of two equivalent scheduling periods, except in order to improve the slot timings for these services in relation to the timings initially requested.

↓ 793/2004 Art. 1.5 (adapted)
⇨ new

Article 14

⌦ Competition provisions ⌫

This Regulation shall not affect the powers of public authorities to ~~require~~ ⇨ approve ⇦ the transfer of slots between air carriers and to direct how these are allocated pursuant to national competition law or to Articles ~~81 ou 82~~ ⌦ 101, 102 ⌫ ⇨or 106 ⇦ of the Treaty or Council Regulation (EC) No 139/2004[23]. ~~These transfers can only take place without monetary compensation.~~

↓ 545/2009 Art. 1, paragraph 1

~~*Article 10a*~~

~~For the purpose of Article 12(2), coordinators shall accept that air carriers are entitled to the series of slots for the summer 2010 scheduling period that were allocated to them at the start of the summer 2009 scheduling period in accordance with this Regulation.~~

⇩ new

Delegated acts and committee

Article 15

Exercise of the delegation

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 3(3) in fine shall be conferred on the Commission for an indeterminate period of time from the entry into force of this Regulation.

3. The delegation of powers referred to in Article 3(3) in fine may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall end the delegation of the powers specified in the decision referred to therein. The revocation shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or

[23] OJ L 24, 29.1.2004, p. 1.

at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. The delegated acts referred to in Article 3(3) in fine shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months following notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

↓ 793/2004 Art. 1.9 (adapted)

Article 16

⌦ Committee ~~1.~~ procedure ⌫

↓ 793/2004 Art. 1.9
⇨ new

1. The Commission shall be assisted by a Committee. ⇨ That committee is a committee within the meaning of Regulation (EU) No 182/2011.⇦

2. Where reference is made to this paragraph, ~~Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof~~ ⇨ Article 5 of Regulation (EU) No 182/2011[24] shall apply ⇦ .

~~The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.~~

⇩ new

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivering an opinion, the chair of the committee so decides or a majority of two thirds of the committee members so request.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

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[24] OJ L 55, 28.2.2011, p. 13.

793/2004 Art. 1.9

~~3~~4. The committee may also be consulted by the Commission on any other matter concerning application of this Regulation.

~~4. The Committee shall adopt its rules of procedure.~~

793/2004 Art. 1.9 (adapted)
⇨ new

⌦ Implementing acts ⌫

Article 17

⌦ Consistency between the slots and the flight plans ⌫

1. ⇨When an air carrier submits a flight plan, it shall include a reference to the slot allocated. The network manager shall reject ⇦ ~~A~~an air carrier's flight plan ~~may be rejected by the competent Air Traffic Management authorities~~ if the air carrier intends to land or take off at a coordinated airport, during the periods for which it is coordinated, without having a slot allocated by the coordinator. ⇨Business aviation operators shall not be deemed to have been allocated a slot if they would have to operate outside the time-band offered by the slot and if the delay is not attributable to air navigation services. ⇦

⇩ new

2. The Member State shall adopt the measures necessary for the exchange of information between the coordinator, the network manager, the air navigation service providers and the airport managing body.

793/2004 Art. 1.9
⇨ new

Article ~~14~~18

Enforcement

~~2~~1. The coordinator shall withdraw the series of slots provisionally allocated to an air carrier in the process of establishing itself and place them in the pool on 31 January for the following summer season or on 31 August for the following winter season if the undertaking does not hold an operating licence or equivalent on that date or if it is not stated by the competent licensing authority that it is likely that an operating licence or equivalent will be issued before the relevant scheduling period commences. ⇨The competent licensing authorities shall give

regular information updates to the coordinator and respond to its requests within a reasonable period of time. ⇦

~~3. The coordinator shall withdraw and place in the pool the series of slots of an air carrier which it has received following an exchange pursuant to Article 9(1)(c) if they have not been used as intended.~~

~~4~~2. Air carriers that repeatedly ⇨ or ⇦ ~~and~~ intentionally operate air services at a time significantly different from the slot allocated as part of a series of slots or use slots in a significantly different way from that indicated at the time of allocation ~~and thereby cause prejudice to airport or air traffic operations~~ shall lose their ⇨ priority ⇦ ~~status~~ as referred to in Article ~~8~~10(2). The coordinator may decide to withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool after having consulted the air carrier concerned and after issuing a single warning. ⇨If the air carrier requests equivalent slots, the coordinator is not obliged to allocate them. ⇦

⇩ new

The Member State shall ensure that the coordinator establishes an efficient system for supervising the application of this paragraph.

🡻 793/2004 Art. 1.9
⇨ new

~~5~~3. Member States shall ensure that effective, proportionate and dissuasive sanctions ~~or equivalent measures~~ are available ⇨ and are applied ⇦ to deal with

- repeated ⇨ or ⇦ ~~and~~ intentional operation of air services ⇨ without a corresponding slot or ⇦ at times significantly different from the allocated slots or with the use of slots in a significantly different way from that indicated at the time of allocation~~, where this causes prejudice to airport or air traffic operations~~

⇩ new

- the return of slots after 31 January for the following summer season or after 31 August for the following winter season, or the retention of unused slots; the penalty should in any case take account of the possible use of the mechanism provided by Article 11;

- the refusal to communicate to the coordinator or the schedules facilitator the information specified under Articles 7 and 13 or the communication of false or misleading information.

The coordinator shall be duly informed of the application of penalties.

↓ 793/2004 Art. 1.9
⇨ new

~~6~~4. Without prejudice to Article 10(~~4~~5), if the ⇨ 85 ⇦ ~~80~~ % usage rate as defined in Article ~~8~~10(2) cannot be achieved by an air carrier, the coordinator may decide to withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool after having consulted the air carrier concerned.

Without prejudice to Article 10(~~4~~5), if after an allotted time corresponding to ⇨ 15 ⇦ ~~20~~% of the period of the series validity no slots of that series of slots have been used, the coordinator shall place the series of slots in question in the pool for the remainder of the scheduling period, after having consulted the air carrier concerned. ⇨ The coordinator may decide to withdraw the series of slots before the end of a period corresponding to 15 % of the period of validity of the series if the carrier does not show that it intends to use them. ⇦

↓ 793/2004 Art. 1.7

Article ~~11~~19

Complaints and rights of appeal

1. Without prejudice to rights of appeal under national law, complaints regarding the application of Articles 7(2), ~~8, 8a,~~ 9, 10, 13, 17 and 18(1),(2) and ~~to~~ (4) ~~and (6)~~ shall be submitted to the coordination committee. The committee shall, within a period of one month following submission of the complaint, consider the matter and if possible make proposals to the coordinator in an attempt to resolve the problem. If the complaint cannot be settled, the Member State responsible may, within a further two month period, provide for mediation by an air carriers' or airports' representative organisation or other third party.

2. Member States shall take appropriate measures, in accordance with national law, to protect coordinators with regard to claims for damages relating to their functions under this Regulation, save in cases of gross negligence or wilful misconduct.

↓ 95/93

Article ~~12~~20

↓ 793/2004 Art. 1.8 (adapted)
⇨ new

Relations with third countries

1. ⌦The Commission may, in accordance with the procedure referred to in Article 16(2), decide that a Member State or Member States should take measures, ⌫ ⇨ including the

withdrawal of slots, ⇦ ⌦ in respect of an air carrier or air carriers of a third country with a view to remedying the discriminatory behaviour of the third country concerned ⌫ ~~W~~whenever it appears that, with respect to the allocation and use of slots at its airports, a third country:

(a) does not grant ~~Community~~ ⌦ Union ⌫ air carriers treatment comparable to that granted by this Regulation to air carriers from that country, or

(b) does not grant ~~Community~~ ⌦ Union ⌫ air carriers de facto national treatment, or

(c) grants air carriers from other third countries more favourable treatment than ~~Community~~ ⌦ Union ⌫ air carriers~~.~~.

~~the Commission may, in accordance with the procedure referred to in Article 16(2), decide that a Member State or Member States shall take measures, including the suspension in whole or in part of the application of this Regulation in respect of an air carrier or air carriers of that third country with a view to remedying the discriminatory behaviour of the third country concerned.~~

🡻 95/93 (adapted)

2. Member States shall inform the Commission of any serious difficulties encountered, in law or in fact, by ~~Community~~ ⌦ Union ⌫ air carriers in obtaining slots at airports in third countries.

⌦ Final provisions ⌫

🡻 793/2004 Art. 1.10
⇨ new

Article ~~14a~~ 21

Report and cooperation

1. The Commission shall submit a report to the European Parliament and the Council on the operation of this Regulation at the latest ~~three~~ ⇨ four ⇦ years after its entry into force. The report shall address in particular the functioning of Articles ~~8, 8a and~~ 9, 10⇨ 11 ⇦ and 13.

2. Member States and the Commission shall cooperate in the application of this Regulation, particularly as regards the collection of information for the report mentioned in paragraph 1.

↓

Article 22

Repeal

Regulation (EEC) No 95/93 is hereby repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

↓ 95/93 (adapted)

Article ~~15~~23

Entry into force

This Regulation shall enter into force on the ⌦ first day of the second scheduling period starting after ⌫~~thirtieth day following that of~~ its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament The President The President
For the Council *For the Council*
[…] *[…]*

↑

ANNEX I

Repealed Regulation with list of its successive amendments

Council Regulation (EEC) No 95/93	(OJ L 14, 22.01.1993, p.1)
Regulation (EC) No 894/2002 of the European Parliament and of the Council	(OJ L 142, 31.5.2002, p.3)
Regulation (EC) No 1554/2003 of the European Parliament and of the Council	(OJ L 221, 4.9.2003, p.1)
Regulation (EC) No 793/2004 of the European Parliament and of the Council	(OJ L 138, 30.4.2004, p.50)
Regulation (EC) No 545/2009 of the European Parliament and of the Council	(OJ L 167, 29.6.2009, p.24)

ANNEX II

CORRELATION TABLE

Regulation (EEC) No 95/93	This Regulation
Article 1(1) and (2)	Articles 1(1) and (2)
Article 1(3)	—
Article 2(a)	Article 2(1)
Article 2(b)	Article 2(2)
Article 2(c)	—
Article 2(d)	Article 2(3)
Article 2(e)	Article 2(4)
Article 2(f)(i)	Article 2(5)
Article 2(f)(ii)	Article 2(6)
—	Article 2(7)
—	Article 2(8)
—	Article 2(9)
Article 2(g)	Article 2(11)
Article 2 (h)	—
Article 2(i)	Article 2(10)
Article 2(j)	Article 2(12)
Article 2(k)	Article 2(13)
Article 2(l)	Article 2(14)
Article 2(m)	Article 2(15)
—	Article 2(16)
—	Article 2(17)
—	Article 2(18)
—	Article 2(19)

—	Article 2(20)
—	Article 2(21)
Article 3(1)	Article 3(1)
Article 3(2)	Article 3(2)
Article 3(3)	Article 3(3)
Article 3(4)	Article 3(4)
—	Article 3(5)
Article 3(5)	Article 3(6)
Article 3(6)	Article 3(7)
Article 3(7)	Article 3(8)
—	Article 3(9)
—	Article 3(10)
Article 4(1)	Article 5(1)
—	Article 5(2)
Article 4(2)(a)	Article 5(3)(a)
Article 4(2)(b) first sentence	Article 5(3)(b)
—	Article 5(3)(b)(i)
—	Article 5(3)(b)(ii)
Article 4(2)(b) second sentence	Article 5(3)(c)
Article 4(2)(c)	Article 5(3)(d)
—	Article 5(3), in fine
Article 4(3)	Article 5(4)
Article 4(4)	Article 5(5)
Article 4(5)	Article 5(6)
Article 4(6)	Article 5(7)
Article 4(7)	Article 5(7) and Article 6(1)
—	Article 6(2)

Article 4(8)	Article 6(3)
—	Article 6(4)
Article 4(9)	—
Article 4(10)	Article 6(5)
Article 5(1), first subparagraph	Article 8(1), first subparagraph
Article 5(1)(a)	Article 8(1)(a)
—	Article 8(1)(b)
Article 5(1)(b)	Article 8(1)(c)
Article 5(2)	Article 8(2)
Article 5(3)	Article 8(3)
Article 6(1)	Article 4(1)
Article 6(2)	Article 4(5)
Article 6(3)	Article 4(2)
—	Article 4(3)
Article 6(1), in fine	Article 4(4)
Article 7	Article 7
Article 8(1)	Article 10(1)
Article 8(2), first subparagraph, introductory sentence	Article 10(2), introductory sentence
Article 8(2), first subparagraph, first and second indents	Article 10(2)(a) and (b)
Article 8(2), second subparagraph	—
Article 8(3)	Article 9(3)
Article 8(4)	Article 10(5)
Article 8(5)	Article 9(8), first subparagraph
—	Article 9(8), second subparagraph
Article 8(6)	Article 9(7)
Article 8(7)	Article 9(9)

—	Article 11
Article 8a	Article 13
Article 8a(1)	Article 13(1)
—	Article 13(2), first subparagraph
Article 8a(2)	Article 13(2) second subparagraph
—	Article 13(2), in fine
Article 8a(3)	Article 13(3)
Article 8b, first sentence	Article 10(7)
Article 8b, second sentence	Article 14
Article 8b, third sentence	—
Article 9	Article 12
Article 10(1)	Article 9(1)
Article 10(2)	—
Article 10(3)	Article 10(4)
Article 10(4)(a) first, second and third indents	Article 10(5)(a)(i), (ii) and (iii)
Article 10(4)(b), (c) and (d)	Article 10(5)(b), (c) and (d)
—	Article 10(5), in fine
Article 10(5)	Article 10(7)
—	Article 10(6)
Article 10(6)	Article 9(3)
Article 10(7)	Article 9(4)
Article 10(8)	Article 9(5)
Article 10(9)	Article 9(6)
Article 10a	—
Article 11	Article 19
Article 12	Article 20
Article 13(1) and (2)	Article 16(1) and (2)

—	Article 16(3)
Article 13(3)	Article 16(4)
Article 13(4)	—
—	Article 15
Article 14(1)	Article 17(1)
—	Article 17(2)
Article 14(2)	Article 18(1)
Article 14(3)	—
Article 14(4)	Article 18(2)
Article 14(5)	Article 18(3)
Article 14(6)(a) and (b)	Article 18(4), first and second subparagraphs
Article 14a	Article 21
—	Article 22
Article 15	Article 23
—	Annex I
—	Annex II