



Brussels, 12 September 2022
(OR. en)

12005/1/22
REV 1

LIMITE

AVIATION 208
COVID-19 142
CORLX 752
COEST 624
CODEC 1239

WORKING DOCUMENT

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| From: | General Secretariat of the Council |
| To: | Delegations |
| No. prev. doc.: | ST 12005/22 |
| No. Cion doc.: | ST 11306/22 + COR 1 |
| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulation (EEC) No 95/93 as regards temporary relief from the slot utilisation rules at Community airports due to the COVID-19 pandemic <ul style="list-style-type: none">• Presidency compromise |

In preparation of the meeting of the Working Party on Aviation on 15 September 2022, delegations find below the revised draft Presidency compromise on the above proposal.

Changes to the text of the Commission proposal are presented in **bold underlined** and ~~strikethrough~~. Changes to the initial draft compromise are highlighted **additionally in grey**. They concern recital 9 (correction), Art. 8(6a), 10(4a) introduction, 10(4a) subparagraph 5, 10(4b), 10a(5), 14(6) point d.

As regards the threshold in Article 10a(3), the Presidency is aware of all the requests expressed by delegations and has taken informal contact with the European Parliament in order to explore room for continuing the currently applied threshold or, in view of evolving demand and measures taken in other parts of the market, a higher figure, below the fallback rule.

Changes resulting from a review by lawyer-linguists are highlighted in **grey only**.

Draft Presidency compromise

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EEC) No 95/93 as regards temporary relief from the slot utilisation rules at Community airports due to the COVID-19 pandemic

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty 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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p. .

² OJ C , , p. .

- (1) Council Regulation (EEC) No 95/93³ was amended several times since the start of the COVID-19 pandemic as the requirement to use 80 % of slots in a series to maintain the right to the same series in the next corresponding season became unsustainable for air carriers in light of highly reduced air traffic levels.
- (2) Figures published by Eurocontrol show that the air traffic has had strong recovery since the beginning of the summer 2022 scheduling season and the air traffic at the start of the winter 2022/2023 scheduling season is expected to be approximately 90 % of 2019 levels under the base forecast. Those figures justify a return to the 80 % slot use threshold as a general rule **at the appropriate moment**, complemented with specific slot use alleviation in cases of justified non-use of slots.
- (3) Nevertheless, as experience has shown, the COVID-19 situation remains highly uncertain. As was the case at the end of 2021 with Omicron, new variants can appear and cause sudden reactions from States and consumers that can in turn negatively affect air traffic. Further, certain long-haul markets continue to be affected by sanitary measures severely impeding traffic.
- (4) Russia's ~~military~~ **war of** aggression against Ukraine is also having an impact on air traffic and air carriers' ability to operate their slots as Union air carriers are prevented from entering the airspace of Belarus, Russia and Ukraine.
- (5) State-imposed travel restrictions for sanitary reasons and the impossibility to enter airspace as a result of military conflict are beyond the control of air carriers and can lead them to voluntarily or involuntarily cancel air services or adjust schedules in response to those circumstances. In particular, voluntary cancellations protect the financial health of air carriers while at the same time avoiding the negative environmental impact of flights operated only to retain their slots.

³ Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p. 1).

- (6) Under those circumstances, air carriers ~~that failing~~ to use their slots in accordance with the slot utilisation rate ~~as~~ set out in Regulation (EEC) No 95/93 should not automatically lose the precedence, in respect of the ~~to slot~~ series of slots, laid down in Article 8(2) and Article 10(2) of that Regulation that they ~~might would~~ otherwise enjoy. ~~This Regulation should establish S~~specific rules ~~should be established~~ to this effect.
- (7) At the same time, it is important to recall the objectives of Regulation (EEC) No 95/93, namely to ensure the efficient use of airport capacity and to ensure fair access for all airlines to limited airport capacity thereby promoting competition. The adjustment of normal slot use requirements through a lower use-rate or extended justified non-use exceptions should be strictly targeted to situations where slot relief is necessary and not lead to unfair competitive advantages for those carriers holding historic slots.
- (8) In particular, it is necessary to ensure that air carriers prepared to provide services are allowed to take up unused capacity and that they have the prospect of maintaining such slots in the long term. That should maintain air carriers' incentives to make use of airport capacity, which in turn would benefit consumers in terms of connectivity.
- (9) It is therefore necessary to lay down, in accordance with those principles and for a limited period, the conditions under which air carriers continue to be entitled to series of slots under Article 8(2) and Article 10(2) of Regulation (EEC) No 95/93, and to establish requirements for air carriers concerned to release unused capacity. The period should run from ~~30~~²⁹ October 2022 until ~~30~~²⁶ March 2024 in line with the recovery forecast of Eurocontrol.
- (10) The definition of the term 'new entrant' should remain broad in order to increase the number of air carriers covered, thereby giving more air carriers the opportunity to establish and expand their operations.

- (11) From ~~29-30~~ October 2022 until ~~26-30~~ March 2024, the system of slot allocation should continue to recognise the efforts of the air carriers that have operated flights using slots which are part of a series that another air carrier is entitled to under Article 8(2) and Article 10(2) of Regulation (EEC) No 95/93, but which have been made available to the slot coordinator for temporary reallocation. Therefore, air carriers that have operated ~~a series of~~ at least five slots ~~of a series~~ should receive priority for the allocation of those series in the next equivalent scheduling period, subject to airport capacity availability.
- (12) To address the impacts of Russia's ~~military-war of~~ aggression against Ukraine and to support the recovery of connectivity between the Union and Ukraine, it is necessary to extend the period when operators may rely on the reason set out in Article 10(4), point (a), of Regulation (EEC) No 95/93 to justify the non-utilisation of the series of slots on the routes between the Union and Ukraine.
- (13) Without prejudice to the obligation of Member States to comply with Union law, in particular with the rules laid down in the Treaties and in Regulation (EC) No 1008/2008 of the European Parliament and of the Council⁴, the negative consequences on passengers' ability to travel due to possible restrictions adopted by public authorities of Member States or third countries addressing epidemiological situations, natural disasters or political unrest, **such as rebellion, riot or public disorder**, cannot be imputed to air carriers and should be mitigated where those measures significantly impact the viability or the possibility of travel or the demand on the routes concerned. Mitigations should ensure that air carriers should not be penalised for failure to use slots where that failure is the result of such restrictions.

⁴ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

- (14) To reduce the risk of competition distortions and ensure the efficient use of airport capacity, specific relief from the effects of the imposition of restrictions referred to in recital 13 should be of limited duration and scope, to ensure that the effect of the mitigation is limited to the period for which it was justified. ~~Therefore, slots covered by such mitigations of restrictions referred to in recital 13, should not count towards the slot use percentage referred to in Article 8(2) and Article 10(2) of Regulation (EEC) No 95/93.~~ **Slots covered by such mitigations restrictions should be deemed as operated for the purposes of Regulation (EEC) No 95/93.**
- (15) It is necessary to clarify that the provisions on the justified non-use of slots exceptions do not apply to air carriers that are the object of restrictive measures adopted pursuant to **Article 29 of the Treaty on the European Union or** Article 215 of the Treaty on the Functioning of the European Union (TFEU), or to air carriers subject to an operating ban within the Union which are listed in Annex A or B to Commission Regulation (EC) No 474/2006⁵. In order to ensure the effective application of those measures, the impossibility to invoke the provisions on the justified non-use of slots exceptions should apply also to the air carriers that are already the object of such restrictive measures in force on the date of entry into force of this Regulation.
- (16) The cooperation between coordinators should be strengthened to ensure uniform implementation of Regulation (EEC) No 95/93 across the Union.
- (16a) Coordinators should exchange best practices on the implementation of that Regulation, including through the European Union Airport Slot Coordinators Association (EUACA), which should continue to issue is encouraged to continue issuing** guidance to ensure a harmonious implementation of the Union rules, in particular regarding the provision on the mitigation of the restrictions referred to in recital 13. **Moreover, Whether** the mitigation is applied or not is an important piece of information for air carriers when planning their schedules. Therefore, transparent communication from the side of coordinators should be ensured.

⁵ Commission Regulation (EC) No 474/2006 of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council (OJ L 84, 23.3.2006, p. 14).

- (17) While the provision on the mitigation of the restrictions referred to in recital 13 should be interpreted strictly, as it is an exception to the normal slot use requirements, certain instances may require common action by all coordinators to ensure a level playing field across the Union. Under certain conditions and based on a unanimous decision, coordinators ~~should~~ **could** apply that provision to all slots held at coordinated airports.
- (17a) During winter season 2022/23, for which the robustness of traffic forecasts is negatively affected by the uncertain evolution of various crises, in particular the situation in Ukraine and the COVID-19 pandemic, air carriers should be released, to the necessary extent, from the requirements to use slots in order to retain entitlement to those slots in the subsequent equivalent scheduling period. This would enable air carriers to increase the provision of services when circumstances allow, with a view to applying the regular slot use rules from summer season 2023, subject to adaptations by the Commission under specific conditions to react to certain challenges to the air transport sector.**
- (18) In order to address the evolving impacts of COVID-19 **or the impacts of other epidemiological situation** and **the** direct effects of Russia's ~~military-war of~~ aggression against Ukraine on air traffic, and to respond flexibly, where strictly necessary and justified, to the challenges the air transport sector is facing as a consequence, the power to adopt acts in accordance with Article 290 of the **TFEU** should be delegated to the Commission in respect of amending the percentage values of the minimum usage rate within a certain range and for any scheduling period within the period from **26 March 2023**~~29 October 2022~~ until ~~26~~**30** March 2024 in line with Eurocontrol's forecast recovery.
- (19) Considering the devastating impact of Russia's ~~military-war of~~ aggression against Ukraine and to support connectivity to or from Ukraine in the aftermath, the power to adopt acts in accordance with Article 290 of the **TFEU** should be delegated to the Commission in respect of amending the percentage values of the minimum usage rate within a certain range for the routes between the Union and Ukraine and for any scheduling period from ~~30~~**29** October 2022 until ~~30~~**26** March 2024.

- (20) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (21) Airports, airport services providers and air carriers need to have information on available capacity for the purpose of adequate planning. Air carriers should continue to make available to the coordinator for possible reallocation to other air carriers any slot that they do not intend to use at the earliest possible opportunity and no later than three weeks before the planned date of their operation. Where the slot use rate is lowered by delegated act, air carriers ~~who~~ repeatedly fail to comply with ~~that~~ this requirement, should not benefit from the reduced threshold.
- (22) Where a coordinator is satisfied that an air carrier has ceased operations at an airport, the coordinator should withdraw the slots from the air carrier in question and place them in the pool for reallocation to other carriers.
- (23) The prohibition on air carriers to fly into Union airspace in application of restrictive measures adopted pursuant to **Article 29 of the Treaty on the European Union or** Article 215 of the **TFEU** or of an operating ban pursuant to Regulation (EC) No 474/2006 may result in the unjustified blocking of slots at Union airports. While slots previously used by such air carriers can be re-allocated on an ad hoc basis during the scheduling season, this does not sufficiently incentivise the efficient use of slots enabling airlines to increase long-term competition and connectivity for the benefit of consumers. The slots should therefore be withdrawn from the air carriers concerned immediately.

⁶ OJ L 123, 12.5.2016, p. 1.

- (24) Since the objective of this Regulation, namely the establishment of specific rules and the relief from the general slot utilisation rules for a limited period of time in order to mitigate the effects **in particular** of the Covid-19 crisis and Russia's **military-war of** aggression against Ukraine on air traffic, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed action, 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 to achieve that objective.
- (25) In view of the urgency entailed by the exceptional circumstances related to the COVID-19 pandemic and Russia's **military-war of** aggression against Ukraine, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (26) In order to allow for the prompt application of the measures provided for in this Regulation, it should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 95/93 is amended as follows:

(1) ~~in~~ Article 2 is amended as follows:

(a) ~~in~~ point (ba), the introductory wording is replaced by the following:

‘during the period **from 30 October 2022 to 30 March 2024**~~referred to in Article 10a(5)~~, ‘new entrant’ shall mean.’;

(b) ~~point (f) (i) is replaced by the following:~~

“‘air carrier’ shall mean an air transport undertaking holding a 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 purpose of Articles 4, 8, 8a, and 10 and **10a**, the definition of air carrier shall also include business aviation operators, when they operate according to a schedule; for the purposes of Articles 7 and 14, the definition of air carrier shall also include all civil aircraft operators.’”

(2) Article 8 is amended as follows:

(a) in paragraph 2, first subparagraph, the introductory wording is replaced by the following:

‘2. Without prejudice to Articles 7, 8a and 9, Article 10(1) and Article 14, paragraph 1 of this Article shall not apply when the following conditions are satisfied.’;

(b) in paragraph 2a, the first subparagraph is replaced by the following:

‘2a. During the period **from 30 October 2022 to 30 March 2024**~~referred to in Article 10a(5)~~ and subject to capacity being available at the airport, a series of slots which was returned to the slot pool in accordance with paragraph 1 of this Article at the end of the scheduling period (the “reference scheduling period”) shall, upon request, be allocated for the next equivalent scheduling period to an air carrier which has operated at least five slots of the series in question following the application of Article 10a(7) during the reference scheduling period.’;

(c) paragraph 6a is replaced by the following:

‘6a. Within the period during which COVID-19 coordination parameters apply and in order to enable the proper application of such coordination parameters, the coordinator may, **after having heard the air carrier concerned**, amend the timing of requested or allocated slots falling within the period **from 30 October 2022 to 30 March 2024**~~specified in Article 10a(5)~~ or cancel them ~~after having heard the air carrier concerned~~. In this context, the coordinator shall take into account the additional rules and guidelines referred to in paragraph 5 of this Article, under the conditions set out therein.’;

(3) Article 10 is amended as follows:

(a) paragraph 2a is ~~deleted~~~~repealed~~;

(b) paragraph 4 is amended as follows:

(i) the first subparagraph is amended as follows:

– point (d) is replaced by the following:

‘(d) judicial proceedings concerning the application of Article 9 **of this Regulation** for routes where public service obligations have been imposed according to Article 4 of Regulation (EEC) No 2408/92 resulting in the temporary suspension of the operation of such routes.’;

– point (e) is deleted;

(ii) the second, third, fourth and fifth subparagraphs are deleted;

(iii) the following subparagraph is added:

‘Where the impact of Russia’s ~~military~~ **war of** aggression against Ukraine and the destruction of critical infrastructure affects the ability to provide air services as well as demand, coordinators shall apply the first subparagraph, point (a), to the routes between the Union and Ukraine for the duration of the airspace **or airport** closure, **whichever occurs later**, and an additional ~~recovery~~ period of 16 weeks. The coordinator shall notify the Commission of the start date and end date of the 16 week period.’

(c) the following paragraphs 4a, ~~4ab~~, 4b and 4c are inserted:

‘4a. During the period **from 30 October 2022 to 30 March 2024**~~referred to in Article 10a(5)~~, the non-utilisation of a slot may also be justified **for the purpose of paragraph 4** by the introduction, by public authorities of restrictions intended to address any major epidemiological situation, natural disaster, or political unrest at one end of a route for which the slot in question was used or planned to be used on condition that those measures significantly impact the ~~viability or possibility of, or demand for, travel or the demand on the routes concerned~~ **and that, on the routes concerned**, the restrictions lead to any of the following:

- (a) a partial or total closure of the border, airport or airspace during a substantial part of the relevant scheduling period;
- (b) a severe impediment to passengers’ ability to travel with any carrier on that direct route during a substantial part of the relevant scheduling period, where the impediment is linked to any of the following reasons, but not limited to them:
 - travel restrictions based on nationality or place of residence, prohibition of all except essential travel, or bans on flights from or to certain countries or geographical areas,
 - restrictions of movement or quarantine or isolation measures within the country or region where the airport of destination is located (including intermediate points), unless quarantine can be avoided by a negative test, proof of recovery or proof of vaccination recognised by the Union,
 - restrictions on the availability of services essential to support directly the operation of an air service, including the closure of hospitality and public services, including transport, leading to a severe downturn in demand at either end of the route,
 - limitations on number of passengers per flight and frequencies per air carrier leading to a severe downturn in demand at either end of the route;

- (c) restrictions on airline crew movements significantly hampering the operation of air services from or to the airports served, including sudden bans on entry or the unexpected stranding of crew due to quarantine measures, unless quarantine can be avoided by a negative test, proof of recovery or vaccination recognised by the Union.

~~When the non-utilisation of a slot is justified by the restrictions referred to in the first subparagraph, the coordinators shall disregard that slot and apply the slot use percentage referred to Article 8(2) and Article 10(2) to the remaining slots of the series.⁷~~

This paragraph shall apply within the period during which the restrictions referred to in the first subparagraph apply and during up to six additional weeks, within the limits referred to in the third and fourth ~~and fifth~~ subparagraphs. However, where those restrictions cease to apply less than six weeks before the end of a scheduling period, this paragraph shall apply to the remainder of the six weeks period only where the slots in the subsequent scheduling period are used for the same route.

This paragraph shall only apply to slots used for routes for which they were already used prior to the publication of the restrictions referred to in the first subparagraph.

This paragraph shall cease to apply where the air carrier, using the slots in question, changes to a route not affected by the restrictions referred to in the first subparagraph.

⁷ Note : see new paragraph 4ab referring to paragraphs 4 and 4a.

~~Based on an unanimous decision by coordinators and after notifying the Commission, coordinators may apply this paragraph to all slots held at Union coordinated airports when~~ **When** a majority of Member States representing the majority **at least 50 %** of the Union population applies restrictions referred to in the first subparagraph **which significantly impact the possibility of, or demand for, travel and lead to any of the situations referred to in points (a) to (c) of the first subparagraph, coordinators may, based on an unanimous decision by coordinators of all Community coordinated airports and after notifying the Commission and Member States, apply this paragraph to all slots held at such airports for the duration of the restrictions being in force and during up to 6 additional weeks, provided that those restrictions affect a significant number of routes to or from a Community airport** ~~for a substantial part of the scheduling season,~~ **thereby** rendering air traffic in the Union to a large extent unviable or leading to an uneven level playing field.

4ab. When the non-utilisation of a slot is justified by the restrictions referred to in paragraph 4 or 4a, the coordinators shall consider the slot as operated within the series of slots concerned.

4b. ~~Paragraphs 4 and 4a shall not apply to a~~ Air carriers whose operations are impeded by restrictive measures adopted pursuant to **Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union**, including those in force on [*date of entry into force of this amending Regulation*] and ~~to~~ air carriers subject to an operating ban within the Union which are listed in Annex A or B to Commission Regulation (EC) No 474/2006* **cannot invoke any justification for the non-utilisation of slots under paragraphs 4 and 4a of this Article, except if they are permitted to operate wet-leased aircraft of an air carrier whose operations are not impeded by such restrictive measures and which is not subject to such an operating ban, provided that safety rules applicable in the EU are complied with.**

- 4c. Coordinators shall regularly exchange best practices on the implementation of paragraphs 4 and 4a with the aim of ensuring coherent and consistent application across the Union.

Coordinators shall publish and regularly update the list of destinations to which paragraphs 4 and 4a apply.

* Commission Regulation (EC) No 474/2006 of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council (OJ L 84, 23.3.2006, p. 14).’;

(d) Paragraph 5 is replaced by the following:

“5. At the request of a Member State or on its own initiative the Commission shall examine the application of paragraphs 4 and 4a by the coordinator of an airport falling within the scope of this Regulation.”

(4) Article 10a is amended as follows:

(a) the heading is replaced by the following:

‘Article 10a

Allocation of slots in response to certain crisis situations ~~the COVID-19 crisis and Russia’s military aggression against Ukraine~~’;

(b) paragraphs 1, 2 and ~~to~~ 4 are deleted;

(ba) ~~paragraph 3 is replaced by the following:~~

'3. During the period from 30 October 2022 until 25 March 2023 and for the purposes of Article 8(2) and Article 10(2) and (4), if an air carrier demonstrates to the satisfaction of the coordinator that it has operated the series of slots that was allocated to it, as cleared by the coordinator, for at least [XX]% of the time during the period for which it has been allocated, that air carrier shall be entitled to the same series of slots for the next equivalent scheduling period.'

(c) paragraph 5 is replaced by the following:

~~'5. During the period from 29 October 2022 until 26 March 2024, w~~**Where data published by Eurocontrol clearly shows that weekly air traffic, considering more than one week, in each of four consecutive weeks falls below 80 % of 2019 levels of the corresponding weeks, due to COVID-19, other epidemiological situations or as a direct effect of Russia's military-war of aggression against Ukraine and that, on the basis of Eurocontrol traffic forecasts, the reduction in the level of air traffic as compared to the level in the corresponding period in 2019 is likely to persist during a substantial part of the forthcoming scheduling period, the Commission is empowered to adopt delegated acts in accordance with Article 12a to amend the percentage values set out in Article 8(2) and Article 10(2) and (4) within a range between 0 % and 70 % for any scheduling period falling between 26 March 2023 and 30 March 2024 / the summer scheduling period from 26 March 2023 to 28 October 2023 within the period referred to in this paragraph. The percentage value applied shall be proportionate to the level of air traffic forecasts by Eurocontrol. ~~Where Eurocontrol air traffic forecasts are closer to 2019 levels and the majority of indicators show that air traffic has stabilised, the Commission shall choose a higher value set within that range. For this purpose, the Commission shall have regard to all the following elements:~~**

(a) data published by Eurocontrol on traffic levels and traffic forecasts;

- (b) indicators relating to demand for passenger and cargo air transport, including trends regarding forward bookings, airlines planned schedules, fleet size, fleet utilisation, and load factors;
- (c) measures by public authorities linked to **the Covid-19 crisis or another** epidemiological situation resulting in an appreciable effect on air traffic levels to or from Union airports, forced re-routings due to airspace closures or prohibition on Union air carriers to enter a third country airspace taking into account advice from the European Union Aviation Safety Agency in its Conflict Zone Information Bulletin;
- (d) data from the European Centre for Disease Control and the World Health Organisation on COVID-19 or other epidemiological situations characterised by being highly contagious and likely to induce a severe downturn in air travel.’;

In view of the preparation of schedules by air carriers ahead of the season, the Commission shall endeavour to adopt delegated acts pursuant to this paragraph no later than 31 December 2022 for the following summer scheduling period and no later than 31 July 2023 for the following winter scheduling period .’;

- (d) the following paragraph 5a is inserted:

‘5a. ~~During the period referred to in paragraph 5, w~~Where the Commission finds that due to the destruction of infrastructure and impact on living conditions as a result of Russia’s **military war of** aggression against Ukraine, the gradual restoration of air traffic between Ukraine and the Union requires a lower use rate for routes serving Ukraine, the Commission shall adopt delegated acts in accordance with Article 12a to amend the percentage values set out Article 8(2) and Article 10(2) **and (4)** within a range between 0 % and 70 % for slots used on routes to or from Ukraine for any scheduling period **falling between 30 October 2022 and 30 March 2024**~~within the period referred to in paragraph 5. Where Eurocontrol air traffic forecasts are closer to 2019 levels and the majority of indicators show that air traffic has stabilised, the Commission shall choose a higher value set within that range.~~ For this purpose, the Commission shall have regard to the following elements:

- (a) data published by Eurocontrol on traffic levels and traffic forecasts on routes between the Union and Ukraine;
 - (b) indicators relating to demand for passenger and cargo air transport, including trends regarding forward bookings and airlines planned schedules;
 - (c) forced re-routings due to airspace closures or prohibition on Union air carriers to enter a third country airspace taking into account advice from the European Union Aviation Safety Agency in its Conflict Zone Information Bulletin.’;
- (e) paragraphs 6 and 7 are replaced by the following:
- ‘6. Where, in the case of a prolonged impact of COVID-19, other epidemiological situations or direct effects of Russia’s ~~military~~ **war of** aggression against Ukraine, imperative grounds of urgency so require, the procedure provided for in Article 12b shall apply to delegated acts adopted pursuant to this Article.
7. During ~~the period referred to in paragraph 5~~ **a period where slot relief applies according to paragraph 3, 5 or 5a** of this Article, air carriers shall make available to the coordinator for reallocation to other air carriers any slot they do not intend to use, no less than three weeks before the date of intended operation. **Without prejudice to Article 10(4) and (4a), w**Where an air carrier fails to make available to the coordinator more than three slots in a series in accordance with this paragraph, that carrier shall be entitled to the entire series of slots in the next equivalent scheduling period only if the entire series of slots has been operated, **or deemed to be operated in accordance with Article 10(4ab)**, by the carrier for at least 80 % of the time, regardless of whether Article 8(2) and Article 10(2) have been amended by the delegated act referred to in this Article.’;

(4a) in Article 11, paragraph 1 is replaced by the following:

- ‘1. Without prejudice to rights of appeal under national law, complaints regarding the application of Article 7(2), Articles 8, 8a and 10, **Article 10a(7)**, Article 14(1) to (4) and Article 14(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.’;

(5) in Article 12a, paragraph 2 is replaced by the following:

- ‘2. The power to adopt delegated acts referred to in Article 10a shall be conferred on the Commission until ~~3026~~ March 2024.’;

(6) in Article 14, paragraph 6 is amended as follows:

- (a) points (a), (b) and (c) are replaced by the following:

- ‘(a) Without prejudice to Article 10(4) **and (4a)**, if the 80 % usage rate as defined in Article 8(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 heard the air carrier concerned.
- (b) Without prejudice to Article 10(4) **and (4a)**, if after an allotted time corresponding to 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 heard the air carrier concerned.

(c) During the period **from 30 October 2022 until 30 March 2024**~~referred to in Article 10a(5)~~, when a coordinator determines, on the basis of information at its disposal, that an air carrier has ceased its operations at an airport and is no longer able to operate the slots which it has been allocated, the coordinator shall 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 heard the air carrier concerned;’ ;

(b) the following point (d) is added:

‘(d) During the period **from 30 October 2022 until 30 March 2024**~~referred to Article 10a(5)~~, when a coordinator determines, on the basis of information at its disposal, that an air carrier that is subject to the restrictive measures adopted pursuant to **Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union**, including those in force on ...[date of entry into force of this **amending Regulation**] or an air carrier that is subject to an operating ban within the Union and is listed in Annex A or B to Regulation (EC) No 474/2006, is not able to operate slots for a substantial part of the season, the coordinator shall 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 heard the air carrier concerned. **This paragraph does not apply to slots of an air carrier that is subject to an operating ban within the Union and is listed in Annex A or B to Regulation (EC) No 474/2006, on which the carrier is permitted to operate wet-leased aircraft of an air carrier whose operations are not impeded by such restrictive measures and which is not subject to such an operating ban, provided that safety rules applicable in the EU are complied with.**’

Article 2

This Regulation shall enter into force on the 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*

*For the Council
The President*
