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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

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
- Outcome of the European Parliament's first reading
(Strasbourg, 3 to 6 October 2022)

I. INTRODUCTION

After the EP plenary approved the request of the Committee on Transport and Tourism (TRAN) to proceed according to Rule 163 (urgent procedure) on 4 October 2022, EPP, S&D, Renew and Greens/ EFA submitted one amendment (amendment 1). No other amendments were presented.

II. VOTE

When it voted on 6 October 2022, the plenary adopted amendment 1 to the abovementioned proposal for a Regulation and then adopted the proposal with this amendment in its final vote.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P9_TA(2022)0348

Slot utilisation rules at Union airports: temporary relief *I**

European Parliament legislative resolution of 6 October 2022 on the 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 (COM(2022)0334 – C9-0225/2022 – 2022/0214(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0334),
 - having regard to Article 294(2) and Article 91 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0225/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 22 September 2022²,
 - after consulting the Committee of the Regions,
 - having regard to Rules 59 and 163 of its Rules of Procedure,
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

² Not yet published in the Official Journal.

P9_TC1-COD(2022)0214

Position of the European Parliament adopted at first reading on 6 October 2022 with a view to the adoption of Regulation (EU) 2022/... 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 Union airports *due to an epidemiological situation or military aggression*

(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 Committee³,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁴,

³ Opinion of 22 September 2022 (not yet published in the Official Journal).

⁴ Position of the European Parliament of 6 October 2022.

Whereas:

- (1) Council Regulation (EEC) No 95/93⁵ was amended several times since the beginning of the COVID-19 crisis as the requirement set by that Regulation to operate at least 80 % of a series of slots to maintain the right to the same series of slots in the next equivalent scheduling period became unsustainable for air carriers in light of highly reduced air traffic levels.
- (2) Figures published by Eurocontrol, which is the network manager for the air traffic network functions of the single European sky, show that air traffic has had a strong recovery since the beginning of the summer 2022 scheduling period and that the air traffic at the start of the winter 2022/2023 scheduling period is expected to be approximately 90 % of 2019 levels under the base forecast. Those figures justify a return to the 80 % requirement for slot use as a general rule *for the summer scheduling period 2023*, complemented with specific slot use alleviation in cases of justified non-use of slots.
- (3) Nevertheless, due to the COVID-19 crisis, the situation in the aviation sector remains highly uncertain. As was the case at the end of 2021, new COVID-19 variants can appear and cause sudden reactions from both national authorities and consumers that can in turn negatively affect air traffic. Furthermore, certain long-haul markets continue to be affected by sanitary measures which severely impede air traffic.
- (4) Russia's *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 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).

- (5) State-imposed travel restrictions for sanitary reasons and the impossibility of entering the airspace of what has become a war zone are beyond the control of air carriers. These circumstances can lead to the voluntary or obligatory cancellation of their air services or adjustment of schedules. In particular, voluntary cancellations protect the financial health of air carriers and at the same time avoid the negative environmental impact caused by operating flights only to retain their slots.
- (6) Under those circumstances, air carriers that fail to use their slots in accordance with the slot utilisation rate set out in Regulation (EEC) No 95/93 should not automatically lose the precedence in respect of the series of slots, laid down in Articles 8(2) and 10(2) of that Regulation, that they *might* otherwise enjoy. This Regulation should establish specific rules to this effect.
- (7) At the same time, it is important to recall the objectives of Regulation (EEC) No 95/93, which are namely to ensure the efficient use of airport capacity and to ensure fair access for all air carriers 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 limited to situations where slot relief is necessary and should not lead to unfair competitive advantages for those air 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 Articles 8(2) and 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 October 2022** until **28 October 2023 in line with the recovery forecast of Eurocontrol**.
- (10) During that period, 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 **30 October 2022** until **28 October 2023**, 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 Articles 8(2) and 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 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 effects of Russia’s *war of* aggression against Ukraine and to support the recovery of connectivity between the Union and Ukraine, it is necessary to extend the period during which operators are able to 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 Council⁶, 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 rebellions, riots or severe 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. Mitigation measures should ensure that air carriers are not penalised for failure to use slots where that failure is the result of such restrictions.
- (14) To reduce the risk of distortions of competition and to ensure the efficient use of airport capacity, specific relief from the effects of the imposition of those restrictions should be of limited duration and scope, thus ensuring that the effect of the mitigation measures is limited to the period for which they were justified. Slots covered by such ***measures*** mitigating ***the effect*** of restrictions should ***be deemed to have been operated for the purposes*** of Regulation (EEC) No 95/93.

⁶ 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).

- (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 European Union (TEU) 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 474/2006⁷. 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.
- (17) *Coordinators should exchange best practices on the implementation of Regulation (EEC) No 95/93, including through the* European Airport Coordinators Association (EUACA). The EUACA *is encouraged to continue issuing* guidance to ensure a harmonised implementation of Union rules, in particular regarding the provision on the mitigation of the restrictions. *Moreover*, whether the mitigation is applied or not is an important piece of information for air carriers when planning their schedules. Therefore, it is necessary to ensure transparent communication from the coordinators.

⁷ 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).

- (18) While measures mitigating the restrictions should be interpreted strictly since they represent an exception to the normal slot use requirements, in certain instances it should be possible to 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 be able to*** apply that provision to all slots held at coordinated airports.
- (19) ***The robustness of traffic forecasts for the winter 2022/23 scheduling period is negatively affected by uncertainty concerning the evolution of various crises, in particular the situation in Ukraine and the COVID-19 crisis. Consequently, air carriers should be released, to the extent necessary, from the requirements to operate slots in order to retain entitlement to the same slots in the next equivalent scheduling period. This would enable air carriers to increase the provision of services when circumstances allow, with a view to applying the regular rules for the operation of slots from the summer 2023 scheduling period, subject to those adaptations made by the Commission in specific circumstances to react to certain challenges to the air transport sector.***

(20) In order to address the evolving impact of the COVID-19 crisis *or of other epidemiological situations, as well as the* direct devastating impact of Russia's *war of* aggression against Ukraine on air traffic and to support connectivity to or from Ukraine, and to respond flexibly, where strictly necessary and justified, to the challenges that the air transport sector is facing in consequence, the power to adopt acts in accordance with Article 290 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 30 October 2022 until **28 October 2023** in line with the recovery forecast of Eurocontrol and 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 October 2022 until **28 October 2023**. 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-Making⁸. 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.

⁸ [OJ L 123, 12.5.2016, p. 1.](#)

- (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 air carriers repeatedly fail to comply with that requirement, they should not benefit from a reduced slot operation rate.
- (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 TEU or Article 215 TFEU* or of an operating ban pursuant to Regulation (EC) No 474/2006 could 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 period, this does not sufficiently *encourage* the efficient use of slots enabling airlines to increase long-term competition and connectivity for the benefit of consumers. The slots should therefore be immediately withdrawn from the air carriers concerned.

(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 of *an epidemiological* crisis and Russia's *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 crisis and Russia's *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) *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 28 October 2023, “new entrant” shall mean:’;

(b) *in point (f), point (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 scheduling period or on 31 August for the following winter scheduling period; for the purpose of Articles 4, 8, 8a, 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 28 October 2023*, 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 28 October 2023* or cancel them . In this context, the coordinator shall take into account the additional rules and guidelines referred to in paragraph 5, subject to the conditions set out therein.’;

(3) Article 10 is amended as follows:

(a) paragraph 2a is deleted;

(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 *war of* aggression against Ukraine and the destruction of critical infrastructure affects the ability to provide air services, as well as demand for air services, coordinators shall apply the first subparagraph, point (a), to the routes between the Union and Ukraine for the duration of the airspace closure *or airport* closure, *whichever occurs later*, and an additional **1** 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 are inserted:

‘4a. In addition, during the period *from 30 October 2022 to 28 October 2023*, the non-utilisation of a slot may also be justified 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 operated or planned to be operated, on condition that those *restrictions* significantly impact the possibility of, or demand for, travel, 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 the ability of passengers to travel with any carrier on that direct route during a substantial part of the relevant scheduling period, for example, where the impediment is linked to any of the following reasons:
 - travel restrictions based on nationality or place of residence, the 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 directly support 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 that significantly hamper the operation of air services to or from 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.

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This paragraph shall apply for the period in which the restrictions referred to in the first subparagraph apply and for up to six additional weeks, subject to the *third and* fourth ■ 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-week 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.

When a majority of Member States representing at least 50 % of the population of the Union apply 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, each coordinator may, following a unanimous decision by coordinators of all Community coordinated airports to the effect that non-utilisation of slots is justified in general and its notification by them to the Commission and the Member States, apply this paragraph to all slots held at such airports for the duration of the restrictions that are in force and for up to six additional weeks, provided that those restrictions affect a significant number of routes to or from a Community airport, thereby rendering air traffic in the Union to a large extent unviable or leading to an uneven level playing field.

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

- 4c. *Air* carriers whose operations are impeded by restrictive measures adopted pursuant to **Article 29 of the Treaty on European Union (TEU)** or Article 215 of the Treaty on the Functioning of the European Union (TFEU), including those in force on ...[date of entry into force of this amending Regulation] and 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* **shall not be entitled to invoke a justification for the non-utilisation of slots under paragraphs 4 and 4a of this Article.**

However, by way of derogation from the first subparagraph, where such air carriers 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, they may invoke a justification for the non-utilisation of slots under paragraphs 4 and 4a, provided that safety rules applicable in the Union are complied with.

- 4d. 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.

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- * 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*’;

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

(c) *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), Article 10(2) and (4) and Article 14(6), first subparagraph, 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 75 % of the time during the scheduling 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.’;

(d) paragraph 5 is replaced by the following:

‘5. ***Where*** data published by Eurocontrol clearly shows that weekly air traffic, ***over a period of two consecutive weeks***, has fallen below 80 % of 2019 levels of the corresponding weeks, due to COVID-19 crisis, other epidemiological situations or as a direct effect of Russia’s ***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, the Commission is empowered to adopt delegated acts in accordance with Article 12a to amend the percentage values set out in Article 8(2), Article 10(2) ***and (4) and Article 14(6), first subparagraph***, within a range between 0 % and 70 % for any scheduling period ***falling between 30 October 2022 and 28 October 2023. The percentage value applied shall be proportionate to the level of air traffic forecasts by Eurocontrol.***

When adopting those delegated acts, 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 a significant effect on air traffic levels to or from Union airports, forced re-routings due to airspace closures or a 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 another epidemiological situation characterised as 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 scheduling period, the Commission shall endeavour to adopt those delegated acts pursuant to this paragraph before the start of the scheduling period, in order to allow air carriers to plan their flight schedules. The Commission may adopt such acts during the scheduling period in case of unforeseen circumstances.’;

(e) the following paragraph is inserted:

‘5a. **Where** the Commission finds that due to the destruction of infrastructure and impact on living conditions as a result of Russia’s **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 is empowered to adopt delegated acts in accordance with Article 12a to amend the percentage values set out in Article 8(2), Article 10(2) **and (4) and Article 14(6), first subparagraph**, 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 28 October 2023**.

When adopting those delegated acts, 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 in forward bookings and planned airline 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.’;

- (f) paragraphs 6 and 7 are replaced by the following:
- ‘6. Where, as a result of the prolonged impact of the COVID-19 crisis, of other epidemiological situations or of the direct effects of Russia’s *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 *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 that 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), 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 if the entire series of slots has been deemed to have been operated in accordance with Article 10(4b)*, 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.’;

(5) *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.’;

(6) *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 **28 October 2023**.’;*

(7) in Article 14, paragraph 6 is replaced by the following:

‘6. 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.

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.

During the period ***from 30 October 2022 until 28 October 2023***, 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.

During the period *from 30 October 2022 until 28 October 2023*, 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 TEU or Article 215 TFEU*, 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 scheduling period, the coordinator shall, after having heard the air carrier concerned, withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool.

However, where an air carrier is subject to an operating ban within the Union and is listed in Annex A or B to Regulation (EC) No 474/2006, and 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, the fourth subparagraph of this paragraph shall not apply to that carrier's slots, provided that safety rules applicable in the Union 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 ...,

For the European Parliament
The President

For the Council
The President
