ACL International
ACL Guidance for Polish Slot Sanctions

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1. Introduction

Art. 14 (5) of Council Regulation (EEC) No. 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (Official EU Journal, Polish special edition, section. 7, vol. 2, page. 3, with further amendments) ("Regulation 95/93") envisages that Member State would ensure that effective, proportionate and dissuasive sanctions or equivalent measures are available to deal with repeated and intentional operations of air services 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.

Art. 27 (1) of the Polish Aviation Act of 3 July 2002 (Journal of Laws, 2013 item 1393 and 2014 item 768) ("Aviation Act") envisages control of compliance with regulations and decisions in civil aviation by the President of the Polish Civil Aviation Authority ("ULC") . In accordance with art. 27 (2) point 1 of the Aviation Act, entities engaged in civil aviation business activities, including air carriers, are subject to control by the President of ULC.

On the basis of the ULC President's decision:

- Warsaw Chopin Airport has been designated as a fully coordinated airport;
- Poznań-Ławica airport introduced coordination of flight schedules in the period from 2200-0600.

Airport Coordination Limited ("ACL") was appointed as the coordinator of the above mentioned airports.

This document contains guidelines for the coordinator relating to monitoring of conformity of air traffic operations with slots allocated for take-off and landing, as well as procedures in case of breach of regulations as mentioned in art. 14 (5) of the Regulation 95/93.

2. Definitions

a. Air carrier means all aircraft operators using the airport.

b. Slot time means stand on/off block time.

c. Repeated means at least twice in a period of 6 consecutive months at the same airport.

d. Intentional is taken to mean satisfying at least one of the below:

   a) when an air carrier operated at a time different from the allocated slot, especially when the time of operation that differs from the allocated slot was previously published or indicated in the air ticket or submitted with the flight plan, except for flights delayed due to operational reasons on that day;

   b) when an air carrier carried out an air service without an allocated slot except for diversions or emergency landings;

   c) when an air carrier intentionally operated an aircraft with a higher seating capacity than in the aircraft indicated at the time of slot allocation, except in the case of replacing this type of aircraft on a specific day due to reasons outside the air carrier's control.

e. Significantly is taken to mean satisfying at least one of the below:

   a) operating at a time different from the allocated slot time;

   b) air service carried out using larger aircraft when the number of passengers on board exceeded the capacity of the type of aircraft indicated at the time of slot

allocation or when the external dimensions of the aircraft which carried out the operation gave rise to a situation where a bigger stand than the one required for the type of aircraft indicated at the time slot allocation was needed;

c) air service carried out from a destination different to the one indicated at the time of slot allocation, when arrival or departure was from a non-Schengen direction, while at the time of slot allocation the direction was Schengen, or viceversa.

3. Types of breaches set out in art. 14 (5) Regulation 95/93

Examples of breaches connected with air operations carried out at a time significantly different from the allocated slot time are:

a) execution of scheduled or non-scheduled operation of air service carried out at a time significantly different from the slot time;

b) repeated ad hoc operation of air service, including operations carried out by 'GA / BA' operators, at a time significantly different from the slot time;

c) execution of an air service without obtaining a slot.

Examples of slot usage in a significantly different way from that indicated at the time of allocation are:

a) execution of an air service using aircraft larger than the one indicated at the time of slot allocation because it causes disruption to airport operations due to increased crowding or queues of passengers using the terminal building;

b) execution of an air service using an aircraft requiring a larger parking stand from the one indicated at the time of slot allocation because it causes disruption to the airport or air traffic operations due to the need for sudden changes in the airport stand plan;

c) execution of an air service on a route different to the one indicated at the time of slot allocation since it may cause disruption to air traffic operations due to pressure of increased demand for facilities and infrastructure.

Examples of slot usage as described in point 3.2 shall be considered as misuse under art. 14.5 of Regulation 95/93 when they cause prejudice to airport or air traffic operations.

4. Process of imposing sanctions for breaches

4.1 In accordance with art. 4 (6) of Regulation 95/93, the coordinator has the duty to monitor the adherence of air carrier operations to allocated slot times. If during monitoring, or as a result of a complaint or information received from another reliable source, a possible breach is identified, the coordinator carries out actions detailed as below:

4.2 Stage 1: Investigation by the Coordinator

4.2.1 The coordinator contacts the air carrier to investigate whether a breach mentioned in art. 14 (5) of Regulation 95/93 has occurred. The coordinator provides the air carrier with evidence collected in the case together with a response deadline of 7 days. Under special circumstances the deadline may be shortened. The correspondence between the coordinator and the air carrier is conducted in writing and may be carried out via email.

4.2.2 If the carrier fails to respond within the given deadline or provides an inaccurate answer, in particular an incomplete one, one unrelated to the enquiry or one containing false information which could be misleading, the coordinator will rely on best available information.

4.3 Stage 2: Coordinator's Recommendations on Further Actions

4.3.1   If the coordinator, on the basis of gathered evidence, is satisfied that there are no grounds to assume breach of art. 14 (5) of Regulation 95/93, the coordinator informs the air carrier that no further action will be taken at this stage.

4.3.2   If the coordinator, on the basis of gathered evidence, concludes that a breach of art. 14 (5) of Regulation 95/93 has occurred, the coordinator informs the air carrier of such findings and that a notification of breach may be forwarded to the President of ULC, together with evidence collected in this case.

4.3.3   When a repeated breach of regulation takes place, as indicated in art. 14 (5) of Regulation 95/93 and following a single warning, as described in point 4.3.2 above, the coordinator notifies the President of ULC of such occurrence. The notification contains evidence collected by the coordinator together with a recommended level of breach severity, where 1 signifies the lowest degree of breach and 5 the highest. When assigning that value, the coordinator takes into account the extent of disruption to the airport and air traffic operations and whether the air carrier committed such offences in the past.

4.3.4   The President of ULC acts within given competences, in line with the Aviation Act, 14 June 1960 Administrative proceedings code (Journal of Laws 2013 item 267, Journal of Laws 2014 item 183), Regulation 95/93, Act on freedom of business activities of 2 July 2004 (Journal of Laws 2013 item 672, with further amendments) and Act on Execution of proceedings in administration of 17 June 1966 (Journal of Laws 1966 no. 24 item 151).

4.3.5   Amendments to Guidelines
These Guidelines may be amended following consultations with ULC and relevant coordination committees.