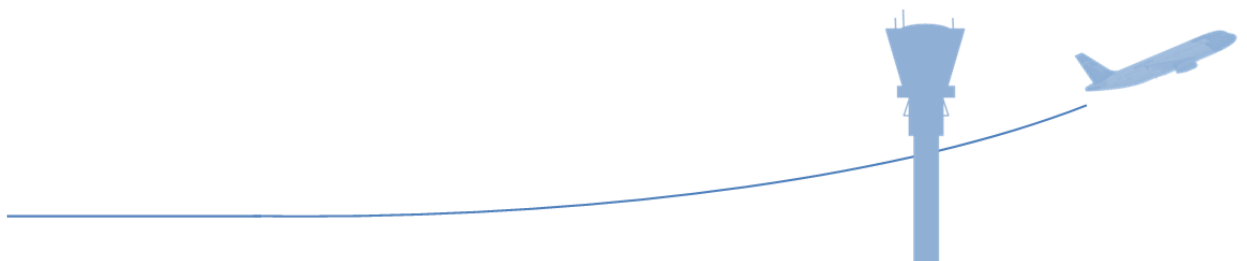


Guidelines in case of a suspected breach in accordance with  
Article 14 (5) of Council Regulation (EEC) No. 95/93

**September 2022 Version 1**



## 1. Introduction

Article 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”) requires Member States to 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.

Article 27 (1) of the Polish Aviation Act of 3 July 2002 (Journal of Laws, from 2020 item 1970, from 2021 items 784, 847, 1898 and from 2022 item 655) (“Aviation Act”) envisages control of compliance with regulations and decisions in civil aviation by the President of the Polish Civil Aviation Authority (“the President of the CAA”). In accordance with Article 27 (2) point 1 of the Aviation Act, entities engaged in civil aviation business activities, aircraft users and users of non-registered civil aircraft are subject to this control by the President of the CAA.

Article 209ud of the Aviation Act allows the President of the CAA to impose a fine of up to PLN 100,000 on an airport user who intentionally and at least twice within 6 months, in relation to the same airport, (i) operated air services at a significantly different time from the allocated slot; (ii) operated air services without obtaining a slot; or (iii) used slots in a significantly different way from that indicated at the time of allocation where such use in a different way causes prejudice to airport or air traffic operations.

On the basis of the CAA President’s decision:

- Warsaw Chopin Airport has been designated as a fully coordinated airport
- Poznań-Ławica Airport introduced slot coordination in the period from 2200-0600 local time for the entire calendar year.

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 Article 14 (5) of the Regulation 95/93.

## 2. Definitions

- a. Air carrier means an entity authorized to perform air transport services on the basis of a license - in the case of a Polish air carrier, or on the basis of an appropriate act of a competent authority of a foreign country - in the case of a foreign air carrier.
- b. Aircraft operator means the owner of the aircraft or any other person entered as a user on the aircraft register.
- c. Slot time means stand on/off block time.
- d. Repeated means at least twice in a period of 6 consecutive months at the same airport.
- e. 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.
- f. 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 vice-versa.

### **3. Types of breaches set out in Article 14 (5) Regulation 95/93 as implemented by Article 209ud of the Aviation Act**

3.1 Air operations carried out at a time significantly different from the allocated slot time includes:

- 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;

3.2 Execution of an air service without an allocated slot.

3.3 Use of a slot in a significantly different way from that indicated at the time of allocation where it causes disruption to the airport or air operations includes:

- 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.
- d) execution of an air service at night (2200-0600 local time) without allocation of Quota points (for Warsaw Chopin Airport) or without allocation of a slot at Poznań-Ławica Airport or executing an air service with an aircraft noisier than approved by the coordinator when established there is a limit on the number of operations or the noise level during night hours at the airport.

### **4. Process of imposing sanctions for breaches**

4.1 In accordance with Article 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 Article 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 Article 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 Article 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 the CAA, together with evidence collected in this case, which shall be treated as a first warning for the air carrier.
- 4.3.3 When a repeated breach of regulation takes place, as indicated in Article 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 the CAA of such occurrence. The notification contains documents confirming the breach along with a description of the breach, in accordance with Article 209ud of the Aviation Act - including a description of the degree of prejudice to air traffic operations of other airport users (in accordance with the coordinator's knowledge) and the number of breaches committed by the aircraft user. 1 signifies the lowest degree of breach and 5 the highest.
- 4.3.4 The President of the CAA acts within given competences, in line with the Aviation Act, 14 June 1960 Administrative proceedings code (Journal of Laws of 2021 item 735 and 2052), Regulation 95/93, 6 March 2018 Entrepreneurs' Law (Journal of Laws of 2021 items 162 and 2015 and of 2022 items 24 and 974) and Act on Execution of proceedings in administration of 17 June 1966 (Journal of Laws 2022 item 479).

4.3.5 The financial penalties are imposed by the President of the CAA by way of an administrative decision, in accordance with Article 209w (1) of the Aviation Act. By imposing the financial penalty referred to in Article 209ud (1) of the Polish Aviation Act, the President of the CAA shall take into account the degree of prejudice to air traffic operations of other airport users (in accordance with the coordinator's knowledge) and the number of breaches committed by the aircraft user.

## **5. Amendments to Guidelines**

These Guidelines may be amended following consultations with the CAA and the relevant coordination committees.