



Judgment of the Court in Case C-857/24 | daa and Others

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Air transport: an annual passenger limit set down in a development consent relating to an airport may be taken into account when allocating slots to airlines

Such a constraint may exceptionally result in an airline being prevented from retaining slots it previously used

The European Union's Regulation on common rules for the allocation of slots at airports ¹ applies *inter alia* to airports that have insufficient capacity to meet demand for flights. At Dublin airport, which finds itself in such a situation, an airline must obtain a slot in order to be able to use the infrastructure necessary for take-off and landing on a specific date and time. Before slots are allocated, the Irish Aviation Authority determines, in respect of each season, the coordination parameters which reflect all the capacity available at the airport.

Development consents relating to the terminals of Dublin airport, granted by the competent Irish authority in 2007 and 2008, impose a limit of 32 million passengers per year. In 2024, forecasts by the airport's operator indicated that that limit could be reached or exceeded. In order to address that likelihood, the Irish Aviation Authority set seasonal passenger caps for flights to and from the airport. The airport's operator and a number of airlines have challenged those decisions before the High Court (Ireland).

Since the EU Regulation governing slots requires that the parameters for allocation (or 'coordination parameters') be established on the basis of an objective analysis of the airport's capacity, taking into account all relevant technical, operational and environmental constraints, the High Court asks whether the passenger limit provided for in the development consents constitutes such a constraint and whether taking it into account may result in a reduction in the number of slots allocated, including to airlines that were already using them.

In its judgment delivered today, the Court of Justice holds that the coordination parameters must reflect, in operational terms, all the capacity that is actually available at a coordinated airport. The constraints to be taken into account may be legal in nature: they include a limit set down in a development consent where it restricts the operational capacity of the airport and must be complied with by the airport's operator. In that context, it is immaterial whether the urban planning rule is long-standing or the policy underlying it has evolved.

According to the information provided by the Irish court, the limit applicable to Dublin sets a legal restriction on the number of passengers that the airport may accommodate. Disregarding it might lead to a situation where slots are allocated but some of them cannot be used. The Court concludes that such a limit must be taken into account when determining the coordination parameters.

Furthermore, the EU Regulation governing slots, under certain conditions, grants priority to airlines that have already regularly used a series of slots. Such 'historic' slots promote the stability of air operations. However, their allocation for the next equivalent season depends on the available capacity: priority does not therefore guarantee that they will be automatically renewed.

Accordingly, the taking into account of a passenger limit may **exceptionally** result in some series of historic slots, or components thereof, not being reallocated to airlines which would otherwise in principle be entitled to them. The Court

also clarifies that such slots, given that they are temporary and have not been definitively acquired, do not constitute a right to property within the meaning of the Charter of Fundamental Rights.

It is for the Irish High Court to rule on the actions against the decisions relating to Dublin airport in the light of that interpretation of EU law.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice of the European Union about the interpretation of EU law or the validity of an EU act.

The General Court has jurisdiction to deal with requests for a preliminary ruling coming exclusively within the following areas (1) the common system of value added tax (VAT), (2) excise duties, (3) the Customs Code, (4) the tariff classification of goods under the Combined Nomenclature, (5) compensation and assistance to passengers in the event of denied boarding or delay or cancellation of transport services, or (6) the system for greenhouse gas emission allowance trading. The Court of Justice has jurisdiction to deal with all other requests for a preliminary ruling.

Neither the Court of Justice nor the General Court decides the national dispute itself. It is for the national court or tribunal to resolve the case in accordance with the ruling by the Court of Justice or by the General Court, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice. The presentation of the facts and the legal context refers to the relevant period and is based on the case file.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ [Council Regulation \(EEC\) No 95/93](#) of 18 January 1993 on common rules for the allocation of slots at Community airports, as amended by [Regulation \(EC\) No 793/2004](#) of the European Parliament and of the Council of 21 April 2004.