

# Limiting airport slots due to climate change

Legal analysis of the EU Slot Regulation | October 2025

## Introduction

Under the EU's Slot Regulation (Regulation (EEC) 95/93), arrival and departure slots at coordinated EU airports are allocated twice yearly '*while taking account of all relevant technical, operational and environmental constraints*' (Article 6(1)). Slots are allocated from a 'slot pool', and under the 'use it or lose it' rule, an airline may be entitled to the same series of slots if it has operated those slots for at least 80% of the time for which they have been allocated (also known as 'historic slots' and 'grandfather rights') (Article 8(2)).

Within the aviation community, both the scope for a slot coordinator to reduce slots due to environmental constraints and the nature of 'historic slots' is contested. Opportunity Green commissioned an expert legal opinion from Tiffany Tang of Fountain Court Chambers on these key questions (see accompanying PDF – [Slot Regulation Advice](#)) and sets out a high-level summary below.

### Key legal findings

- Laws which impose a binding legal requirement to reduce airport capacity for environmental reasons, including climate change, constitute an 'environmental constraint' which can be used to limit or reduce slots.
- Broader climate change-related limitations, such as national carbon budgets, that affect airport infrastructure may also fall within the scope of 'environmental constraint' for the purposes of determining airport slots.
- The interest of an air carrier in 'historic slots' is not proprietary in nature. The granting of these slots is conditional and subject to the discretion of the coordinator.
- Slots coordinators can reduce slots where there is a binding legal requirement to reduce capacity for environmental reasons (e.g., a legislative capacity cap) under the current Slot Regulation.

## Legal summary

### Can climate change and climate laws be considered ‘environmental constraints’ for slot allocation?

The expert legal opinion found that ‘environmental constraints’ includes climate laws that impose a binding legal requirement to reduce airport capacity, and therefore such laws (e.g., a legislative capacity cap) can be taken into account by slot coordinators to reduce the number of available slots. This interpretation is supported by the ordinary meaning, purpose and legislative history of Article 6 of the Slot Regulation, as well as the provisions of the European Climate Law.

Broader climate change considerations that do not currently create binding legal obligations, such as a national carbon budget, may also amount to a relevant environmental constraint, but this is likely dependant on a fact-sensitive enquiry as to how and to what extent the performance of the airport infrastructure might be affected.

### Do air carriers have proprietary rights over ‘historic slots’?

The legal opinion also concluded that ‘historic slots’, which allow air carriers to retain access to take-off and landing times if they have been used at least 80% of the time under Article 8(2), do not confer any proprietary rights on the holder. The allocation of ‘historic’ slots (also known as grandfather rights) remains conditional and subject to the slot coordinator’s discretion.

This interpretation is supported by (i) the language of the Slot Regulation, which does not explicitly confer property rights, (ii) the wider statutory regime, which attaches subjectivity to the granting of slots to the slot coordinator, (iii) the preparatory documents, which also suggest that the purpose of certain amendments to the Slot Regulation was to clarify that air carriers did not have proprietary rights in slots, and (iv) wider commentary on the question.

## Why does this matter?

The European Commission is currently consulting on various pieces of aviation legislation, including the Slot Regulation (closing 28 October 2025). Whilst it is clear from the legal analysis that airport slot coordinators can under existing rules reduce slots where there is, for example, a legislative airport cap in place for climate or environmental reasons, and airlines do not have a proprietary right in slots that would override that power, the consultation and any subsequent revision of the legislation provides an important opportunity to:

- Clarify the ability of slot coordinators to limit slots in response to climate laws / legislative caps, and confirm how such reduction might occur.
- Expand the scope of the slot coordinators’ discretion in order to respond to environmental and climate change constraints.

Such changes would help ensure the Slot Regulation is coherent with the European Union’s climate laws and objectives, the EU Green Deal, and the EU’s obligations under international law.

You can respond to the consultation [here](#) (closing 28 October 2025).

## About

Opportunity Green is an NGO working to unlock the opportunities from tackling climate change using law, economics, and policy. We do this by amplifying diverse voices, forging ambitious collaborations and using legal innovation to motivate decision makers and achieve climate justice.

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