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Subject: FW: Opportunity Green response to the Draft Decision on Summer 2027 Coordination Parameters at Dublin Airport

Attachments: 2025.09.23 Slot Regulation advice v2.pdf

From: Olivia Moyle <olivia@opportunitygreen.org>
Sent: Wednesday 23 September 2026 16:46
To: Consultation <Consultation@IAA.ie>

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Subject: Opportunity Green response to the Draft Decision on Summer 2027 Coordination Parameters at Dublin Airport

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Dear Sir / Madam,

We write to you in response to the public consultation of the [Draft Decision on Summer 2027 Coordination Parameters at Dublin Airport](#).

[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 with particular emphasis on the aviation and shipping industries. Opportunity Green welcomes the opportunity to provide feedback at this time.

Background

The Draft Decision document makes clear that the IAA does not intend to take account of the 32 million passenger per annum (“mppa”) cap that is currently under consideration as an operational constraint before the CJEU (Case C-857/24). Pending any material changes as a result of the ruling, the IAA shall instead follow the High Court order in disregarding the cap for the Summer 2027 Coordination Parameters (outlined in paragraphs 4.6-4.13 of Draft Decision on Summer 2027 Coordination Parameters).

However, the High Court order does not otherwise prevent or limit the IAA from complying with Article 6(1) Regulation 95/93 (the “Slot Regulation”) in setting coordination parameters. The IAA needs to take account of all relevant environmental constraints in determining the parameters for slot allocation (Article 6(1) of the Slot Regulation).

Opportunity Green commissioned an **expert legal opinion (attached to this email)** on the scope of 'environmental constraints' under Article 6(1), principally considering whether (i) climate change and climate laws can be considered ‘environmental constraints’ for slot allocation and (ii) the air carrier’s

interest in 'historic' slots under Article 8(2) of the Slot Regulation constitutes a property right for the purposes of the reallocation or removal of these slots. The key findings we invite the IAA to take into consideration in the allocation of the Summer 2027 Coordination Parameters pursuant to the Slot Regulation are as follows:

Climate change and climate laws as environmental constraints under Article 6(1)

- 'Environmental constraints' must be taken to include climate laws that impose a binding legal requirement to reduce airport capacity, such as a legislative capacity cap. 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 which stipulate EU legislation covering all sectors of the economy should play a role in contributing to the achievement of climate neutrality.
- This broad, encompassing provision under the European Climate Law also provides evidence that general climate-related issues and 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 within the meaning of Article 6(1).

Air carriers do not have property rights over historic slots under Article 8(2)

- '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 of historic rights is supported by:
 - The language of the Slot Regulation, which does not explicitly confer property rights. The legal opinion concludes that the contrary construction would have serious implications for air carriers and airports. As such, it would be expected for an allocation of a property right to be explicitly addressed in the legislation and not left to ambiguity.
 - The wider statutory regime, which attaches subjectivity to the granting of slots to the slot coordinator.
 - 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.
 - Wider commentary on the question, including the position of the UK Department for Transport on the UK's retained version of the Slot Regulation, "*[it] does not describe an airport slot as a property capable of being owned by an airport or an airline*".

This legal advice is consistent with and complementary to the **Advocate General's Opinion in Case C-857/24** (available [here](#)). While not binding, the following interpretation of Article 6 will have direct and material implications on the IAA's coordination parameters Summer 2027 if the Court follows this reasoning.

The 32 mppa cap is an 'operational constraint' for the purposes of determining coordination parameters

- ‘*Relevant technical, operational or environmental constraints*’ are not only physical or material factors, but also legal constraints imposed by rules which, directly or indirectly, affect the use of the airport.
- Therefore, the 32 mppa cap can be classified as an ‘*operational constraint*’ since it directly restricts the airport operational capacity and can be considered when setting coordination parameters.

Historical slots are not property rights, but authorisation to use airport infrastructure

- Slots are defined as ‘permissions’ in Article 2(a) of Regulation 95/93. The granting of permission does not confer ownership of property, only a right to use it.
- Further, the slots are temporary, conditional, and not freely transferable, which is inconsistent with the attributes of property rights.
- Historical slots cannot override capacity constraints, and removing or reducing slots to comply with airport capacity limits does not compromise the freedom to conduct a business.

As such, whilst the IAA is not to take account of the two planning conditions identified in the Irish High Court order, that order does not apply to any other constraints captured under Article 6(1) of the Slot Regulation. We submit that the IAA needs to ensure that the coordination parameters decision identifies, assesses and takes into account all relevant environmental constraints, being legal as well as physical constraints, including for example within the Climate Action and Low Carbon Development Act and broader EU climate laws in order to properly discharge its legal obligations under Article 6 of the Slot Regulation.

Yours faithfully,

Olivia Moyle on behalf of Opportunity Green

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Olivia Moyle (she/her) | **Legal Officer**

☎ +44 7380 467794

@ olivia@opportunitygreen.org

🌐 www.opportunitygreen.org

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