



Airport slot allocation: Commission calls on the Court to fine Portugal for failure to comply with previous Court judgment

Brussels, 8 November 2018

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The European Commission decided to refer **Portugal** back to the Court of Justice of the EU for its failure to fully and completely comply with the Court's judgment of 2016. The Portuguese authorities have not taken the necessary measures to comply with EU common rules on allocation of airport slots. Portugal failed to provide the necessary safeguards regarding the functional and financial independence of the slot coordinator.

The Commission is calling on the Court of Justice of the EU to impose a lump sum payment of €1849000. The Commission is also proposing a daily penalty payment of €7452, if full compliance by the Member State is not achieved by the date when the Court issues its second judgment under Article 260(2) of TFEU. The final decision on the penalties rests with the Court of Justice of the EU.

Next steps

In case the full compliance by Portugal is not achieved and the Court of Justice of the EU confirms the Commission's view, the daily penalty would have to be paid from the date of the judgment on the second referral to the Court or a later date set by the Court until the full compliance is achieved. The final amount of the daily penalty will be decided by the Court.

Background

On 2 June 2016, the [Court of Justice of the EU ruled](#) that by failing to ensure the functional and financial independence of the slot coordinator the Portuguese Republic has failed to fulfil its obligations on common rules for the allocation of slots at Community airports (Article 4(2) of [Council Regulation \(EEC\) No 95/93](#)). More than two years later, this issue remains unresolved and the Portuguese authorities have not adopted the necessary measures to ensure the coordinator's independent status.

The slot coordinator is in charge of allocating landing and take-off slots in a non-discriminatory, neutral and transparent manner, one of the essential pillars of an aviation system that allows fair competition. The Member State has the responsibility of separating the slot coordinator functionally from any interested party. Moreover, the coordinator's financing system must guarantee its independence.

Under Article 260 of the Treaty on the Functioning of the European Union ([TFEU](#)), if a Member State has not taken the necessary measures to comply with a judgment of the Court of Justice, the Commission may refer the matter to the Court of Justice. The decision on a second referral to the Court of Justice on the basis of Art. 260 of TFEU must always be accompanied by a proposal for a penalty and/or lump sum payment. Calculation of the penalty payment is based on a method that takes account of the seriousness of the infringement, having regard to the importance of the rules breached and the impact of the infringement on general and particular interests, its duration and the size of the Member State, with a view to ensuring that the penalty itself has a deterrent effect. Rulings by the Court are binding on all EU Member States as well as on the EU institutions themselves.

For More Information

- On the key decisions in the November 2018 infringements package, see full [MEMO/18/6247](#).
- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).

IP/18/6253

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