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AIR TRANSPORTATION BETWEEN UKRAINE AND EU COUNTRIES: FROM PROGRESSIVE LIBERALIZATION TO DEREGULATION

Nowadays the basis of agreements about air traffic between Ukraine and other countries are bilateral air service agreements (ASA). Aviation communication between Ukraine and EU is regulated on the basis of bilateral air service agreements (ASA) with all member states and Horizontal Agreement with the European Commission on certain aspects of air services. The last one has been developed by European Commission as model agreement that liberalizes air services between the EU and third countries, called „horizontal“. The EU also provides setting up open aviation areas (so called “open skies”) with key partners to further liberalise certain markets on the bilateral basis by European Common Aviation Area (ECAA) agreement between the EU and third countries [1].

In essence, it is a „free trade area“ for aviation, in particular in matters of flight safety, passenger protection, air carrier liability, environmental protection, competition and state aid. A major step forward in the liberalisation of EU-U.S. air traffic was marked with provisional application in March 2008 of the EU-U.S. Air Transport Agreement. This agreement introduced new commercial freedoms for EU and U.S. airlines and a unique framework for regulatory cooperation in the field of transatlantic aviation. In Europe the first such agreements were concluded with the countries of the Western Balkans and Morocco in 2006. In 2010 similar agreements were signed with Georgia and Jordan. In June 2012 an agreement was signed with Moldova. In general ECAA agreements have been concluded with the EU, Albania, Bosnia and Herzegovina, the Republic of Macedonia, Montenegro, Serbia, Kosovo, Norway, Iceland, Liechtenstein, Switzerland, Morocco, Georgia, Israel, Jordan and Moldova. According to the ECAA agreement, air carriers guided by common law on licensing and market access, competition, non-discrimination, flight safety and state aid have the right to operate within the EU. After signing such an agreement, the countries incorporate the EU norms into their national legislation in the field of air transport management. According to the ECAA Agreement air carriers have the right to operate within the EU guided by common law on licensing and market access, competition, non-discrimination, flight safety, state aid. After signing such an agreement countries incorporate the EU norms into their national legislation in the field of air transport management [1]. The Agreement with Ukraine was also based on the „horizontal“ agreement but has been later expanded due to the presence of a large-scale aviation industry in Ukraine. Negotiations on signing the Agreement lasted from 2007 to 2013. The initialing of the ECAA agreement took a place on November 28, 2013 at the Ukraine-EU Summit in Vilnius. However, only in October 2021 this Agreement has been signed.

So, it replaced ASAs, which were the main basis of regulation about air traffic between Ukraine and EU, designate airlines that are granted the right to operate flights on all routes between countries. At present Ukraine has concluded 70 ASAs on scheduled air services, 26 of which have been concluded between Ukraine and EU member states. Before 2002 such ASA had made the designation of airlines which are owned and controlled by nationals of that signatory EU Member State. But in November 2002, the Court of Justice of the European Union (CJEU) found that such designation was discriminatory and was in breach of EU law. Consequently, every EU Member State is required to grant equal market access for routes to destinations outside the EU to any EU carrier with an establishment in its territory [1]. So the ASAs between EU Member States and third countries, including Ukraine have been amended to reflect this legal requirement. Thus, low-cost companies, which were assigned to fly to Ukraine from EU member states that did not have national airlines, were granted a wide access to Ukraine due to liberalization. In the course of progressive liberalization in the ASAs, there

was a gradual increase in the number of designated carriers and the frequency of flights on international routes.

As of 2018, air transportation in Ukraine was carried out by 34 national airlines which performed 100.3 thousand commercial flights, which was 7.8% higher than in 2017, with an annual increase by 18.7% in the number of passengers and international passenger traffic by 27%. As of 2018, more than the half (54.2%) of all passenger traffic of domestic airlines are international scheduled services.

They were operated by 10 national airlines to 46 countries and the number of passengers who used their services increased by 16.4% and amounted to 6796.2 thousand people [2,3]. This is confirmed by our analysis of changes in the number of flights of domestic and foreign airlines in the airspace of Ukraine between 2015 and 2019 as well as their annual rates. There has been a positive trend of increasing the number of flights of both domestic and foreign airlines, as well as the number of transit flights of the latter.

Since 2016 there has been a gradual slowdown in the growth rate of domestic airlines. At the same time, the growth rate of the number of flights of foreign airlines in the airspace of Ukraine slowed down slightly over the next two years after a rapid growth in 2017 by almost 50%. Due to liberalization and expansion of bilateral interstate agreements on air services between Ukraine and other countries, in 2019 the number of flights of foreign airlines in the airspace of Ukraine increased by 21.5%, while national airlines - only by 3%.

It should be borne in mind that since 2018, European budget airlines have been very active.

The latter significantly affected the economies of many Central and Eastern European countries in the early 2000s, opening up new flows of migrants and tourists to Western Europe. They also have a significant impact on international transport outside the EU. Thus, after the precedent in 2002 - European low-cost - airlines were given the right to be designated carriers in bilateral agreements between an EU country and another country [1]. Ryanair opened the first flights in Ukraine in 2018. Now in 2021, this airline operates flights from five Ukrainian airports on a bilateral basis (Kiev, Lviv, Odessa, Kharkiv and Kherson). Currently, it is planned to expand the route network from 12 regional airports of Ukraine, including the implementation of domestic air transportation [4].

The second powerful low-cost carrier - Wizz Air, plans to fly from the airport "Kiev" ("Zhulyany") on 12 new routes to various airports in the EU, it is planned to introduce 9 new routes from Lviv, 4 - from Odessa and 2 new flights from Kharkov. Most of these new flights will start operating in the spring of 2022 [5].

Thus, two powerful European low-cost airlines will be able to significantly expand the market of transportation to Ukraine, while the national carriers of Ukraine, which are not granted a similar list of rights (flying between EU airports), will not be able to take advantage of the Common Space Agreement. »For the development of the route network in the EU. Moreover, an important obstacle may be the fleet of aircraft of national airlines, which does not fully meet the high environmental standards of the EU.

However, consumers and customers of air transport services - passengers and cargo owners should receive positive effects due to lower fares and the development of the network of routes.

References

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