



Development of European aviation integration: Ukraine on the path to the European Common Aviation Area

Oksana Ovsak^{1*}, Iryna Sadlovska², Bohdan Ovsak³, Oksana Kyrylenko⁴

¹Associate Professor, Ph.D. in Economics

Faculty of Transport, Management and Logistics
National Aviation University Affiliation, Kyiv, Ukraine
ORCID: <https://orcid.org/0000-0003-1725-8887>

²Doctor of Economics, Professor

Head of aviation transportation and international cooperation Department of State aviation
administration of Ukraine, Kyiv, Ukraine
ORCID: <https://orcid.org/0000-0002-9905-3801>

³Master's degree in Economics

Faculty of Management and Marketing, Igor Sikorsky Kyiv Polytechnic Institute: Kyiv, Ukraine
ORCID: <https://orcid.org/0000-0002-0361-0205>

⁴Doctor of Economics, Professor. Head of Management of Foreign Economic Activity of
Enterprises Department, Faculty of Transport, Management and Logistics, National Aviation University,
Kyiv, Ukraine.

ORCID ID: <https://orcid.org/0000-0003-2406-7050>

Abstract

The development of the EU air transport market is based on the use of a complex structure of institutional regulation and various types of multilateral agreements: "European Common Aviation Area", "Open Skies", "Horizontal" as well as "Common Aviation Area" and "Euro-Mediterranean Aviation Agreement". The article is aimed at disclosing the essence and systematization of key features of integration processes in the field of air transport of the European Union, as well as in its relations with neighbouring countries, including Ukraine, which has intensified its actions on the way to the European Common Aviation Area. Based on using the systematic approach as well as methods of comparative law, logical and historical, the identification of the essence of the multilateral agreements and the systematization of their provisions made it possible to identify the patterns of development of European aviation integration and to highlight three clusters of international agreements which the EU uses to implement its external aviation policy. The assessment of the current state of implementation of the relevant EU Directives and Regulations into the legislation of Ukraine in detail for each specialized component showed directions for further development for integration into the European common aviation area.

Keywords: air transport; liberalisation; integration processes; aviation industry; aviation policy; air transport regulation; European Common Aviation Area; Open skies agreements.

* Corresponding author: Oksana Ovsak (ovsak@i.ua)

1. Introduction

European integration processes that began after the end of the World War II largely determined the peculiarities of the development of the air transport industry in Europe and neighbouring countries. This contributed to the fact that today the EU air transport market is the only market in the world that has a multilateral framework with cabotage rights for air carriers and a developed network of liberalized contractual relations with neighbouring countries and strategic partners, which are referred to as agreements that "opened the sky". These include various types of international agreements concluded by the EU: "European Common Aviation Area" (ECAA), "Open Skies", "Horizontal" as well as "Common Aviation Area" Agreements (CAA) and "Euro-Mediterranean Aviation Agreement" (EMA).

Although numerous studies of the consequences of air markets liberalization have been conducted, only several of them: *Button and Drexler (2006)*, *InterVISTAS-ga2 (2006)*, *Morrison W., Piermartini and Rousova (2013)*, *Xiaowen et al. (2010)*, *Tretheway M., Andriulaitis R. (2015)*, *De Wit J. (2016)* dealt with considering the essence of the abovementioned international agreements.

Among the recent studies of the problems, features and consequences of integration processes in the EU air transport industry and neighbouring countries, the most informative were *Abate and Christidis (2020)*, *Christidis P. (2016)*, *Landru et al. (2021)*, *Maertens and Grimme (2019)*, *Piermartini and Rousova (2013)*, *Ovsak and Vysotska (2021)*. However, there is a need to highlight systemic relationships regarding the movement of a particular country to the European Common Aviation Area and the peculiarities of integration, taking into account the challenges of our time.

Ukraine is currently the last country with which the EU has concluded a multilateral CAA. Given the declared in its Constitution orientation towards membership in the European Union, liberalization of the aviation market of Ukraine was considered by the Government of Ukraine mainly as one of the steps in this direction (*Ovsak and Vysotska, 2021*): a gradual liberalization of BASA concluded with the EU countries was carried out, a horizontal agreement was also signed. However, negotiations on the signing of the CAA lasted 6 years (2007-2013), and the actual signing took place only on October 12, 2021 at the 23rd Ukraine-EU summit (*Ukraine-EU, 2021*). It should be noted that the terms of this agreement are somewhat different from a typical agreement due to the presence of a large aviation industry in Ukraine.

In order to identify and reveal the peculiarities of Ukraine's path to the ECAA, it is important to analyse the chronological and meaningful components of partnership relations formation in the aviation industry and to conduct a detailed analysis of the state of implementation of provisions of the signed CAA in the legislation of Ukraine and forecasting its consequences for the development of the aviation policy and the country as a whole.

The article is aimed at disclosing the essence and systematization of key features of integration processes in the field of air transport of the European Union, as well as in its relations with neighbouring countries, including Ukraine, which has intensified its actions on the way to the European Common Aviation Area.

The scientific contribution of this study is an analytical rethinking of the essence of multilateral agreements of various types that ensure the implementation of EU aviation policy, in particular, with regard to neighbouring countries that are moving towards the ECAA. The analysis of the current state of implementation of CAA by the Government

of Ukraine was carried out, the identified inconsistencies and the recommendations provided are of practical value of this study.

2. Research context and methodology

Over the past twenty years, the vast majority of studies related to the change in aviation policy of countries and regions due to the liberalization of bilateral agreements on air transportation and the conclusion of multilateral agreements have been devoted to studying their impact on passenger traffic, the level of competition, as well as the impact on the economies of the countries and regions concerned. In particular, in a thorough study of *InterVISTAS-ga2*. (2006), various types of systemic effects of liberalization on the economies of countries were specified with the allocation of appropriate economic effects. *Piermartini and Rousova* (2008, 2013), examining the impact of the liberalization of air transportation markets on passenger traffic, found that the liberalization of BASAs conditions contributed to an increase in passenger traffic worldwide by 0.5%, while the "open skies" agreement led to its growth by 5%, and, in turn, the ECAAA contributed to an increase in passenger traffic between countries by 10%.

Xiaowen et al. (2010) focuses on the study of increasing passenger traffic through liberalization and its impact on US economic growth. In turn, the article *Tretheway and Andriulaitis* (2015) held a broad discussion of the issues of ensuring a level playing field for airlines in different countries. The authors raised the issue that the conditions for regulating the commercial conditions of international flights should be decided by the competition of the airlines themselves and international law, and not by bilateral agreements on air traffic.

The study of the consequences of the liberalization of EU air connectivity with the USA, Morocco, Turkey and Russia was presented in the article of *Christidis* (2016). He studied changes in the competitive status of airports in conjunction with spatial changes in the aviation markets of these countries and the EU. However, the results did not show the existence of a direct relationship between the type of liberalization agreement and passenger traffic. When considering the somewhat liberalized BASA with Russia, the "horizontal" agreement with Turkey, the EMAAA with Morocco, as well as the "Open Sky" agreement with the United States, P.Christidis concluded that there was a strong impact on passenger traffic of demographic, economic, political, as well as geographical factors inherent in a particular country. In view of the fact that the article was devoted to the study of changes in passenger traffic, depending on the level of liberalization provided by a certain international agreement, questions about the relationship between the level of development of relations between countries and the type of agreement concluded, as well as the existing restrictions imposed on them did not receive detailed consideration.

A study conducted by *Maertens and Grimme* (2019) showed the absence of a positive impact on passenger traffic by concluding "horizontal" EU agreements with third countries on passenger traffic, which allowed them to prove that the decision of the European Court (*Abeyratne*, 2003) resulted in the redistribution of traffic in favour of low-cost airlines.

Published in 2020, the *Abate and Christidis* study concretized the effects of the impact of EU foreign aviation policy on 27 countries located on 4 continents, which liberalized air traffic agreements with EU countries, with some concluding CAAs. They found out that over 14 years, liberalization contributed to a decrease in air fares by a total of 6-23%, which led to an increase in the number of passengers transported by 27% and increased the aircraft load factor.

Close to the subject of our study was, in fact, the study of *Landru et al. (2021)*, which studied the state and development of the European air transport market for the period 2016-2019, in particular through the conclusion of multilateral agreements CAAA and EMAAA concluded by the EU with Morocco, Israel, Jordan, Georgia and Moldova. In that study, the term "agreements with neighbouring countries" was used - in relation to the totality of agreements, both "horizontal" and agreements on common aviation space with these countries, which makes it difficult to differentiate the influence of each of them. At the same time, it was reported that during the 4 years of the study the most significant increase in passenger traffic - by 30% - occurred on the routes between the EU countries and Ukraine, which proved the positive effect of the "visa-free" and gradual liberalization of BASAs, keeping in mind that "horizontal" agreement was concluded in 2005. This fact was also reported in *Ovsak and Vysotska (2021)*, where a combined analysis of changes in the regulation of international aviation traffic and external aviation policy of Ukraine was presented, demonstrating the presence of "external" effects from the liberalization of the aviation market.

The review showed that the problematic issues of development of relations between key players of the aviation market in the context of individual countries and regions, as well as the direct impact of liberalization of aviation markets on competition, tariffs and traffic volumes were mainly studied. We identified the need for relevant structuring of various types of multilateral agreements concluded by the European Community, taking into account their cumulative impact on the development of integration processes in the aviation industry. The study of the essence, provisions and place of each type of intergovernmental multilateral agreements allows to track the dialectics of the development of integration processes in the aviation industry of European and neighbouring countries, including Ukraine, which has intensified its efforts on the way to the European Common Aviation Area.

The methodological basis of the conducted study was the dialectical method of knowledge of social and legal phenomena. In addition, a logical method was used to present all the material, give recommendations and make final conclusions; a method of system analysis to study the air transport market and its regulatory mechanisms; the method of comparative law, as well as a historical method in the context of studying the legal aspects of the organization of international air connectivity.

The article is organized in such a way that the methodological aspects of the integration processes developed in aviation industry, in particular, between the countries of the European Community, neighbouring countries and countries - strategic partners of the EU, were worked out first (section 3). The following sections (4 and 5) revealed the content of the ECAAA, CAAA, EMAAA and "Open Skies" agreements with a comparative analysis of their common features and key differences. Further, chapter 6 was devoted to the analysis of the state of implementation of the EU directives and regulations stipulated in the CAA agreement signed with Ukraine. In section 7, after systematizing the key findings of each section (3,4,5,6), the final conclusions on the development of European aviation integration were presented, highlighting three clusters of international agreements which the EU uses to implement its external aviation policy.

3. Methodological aspects of European integration in the aviation industry

The main core of regulatory mechanism in the field of international air traffic is BASAs concluded by governments of countries in accordance with the Chicago Convention. However, since 1978, it has been supplemented by the "open skies" agreement, and since

2006, such types of agreements as "horizontal" and "common aviation are" have appeared, and the latter already has a multilateral character.

As it is known from the history of the development of the world aviation industry, in 1978, for the first time, the US law on the deregulation of the aviation market was signed, which became a prerequisite for the liberalization of most BASAs signed by the US with other countries. In the same year, the first agreement on "opening" air market was concluded - between the United States and the Kingdom of the Netherlands. In the European Community the air transport deregulation processes were realized by introducing three deregulation packages (1987, 1990 1993). Despite the fact that the full "open skies" regime for air traffic within the European Community (cabotage) was introduced in 1997, until 2002 international air transportation had been governed by previously concluded BASAs. The decision of the Court of Justice of the European Union (CJEU) on "open skies", adopted on November 5, 2002, significantly changed the mechanism of conducting the external aviation policy of the European Community (*Abeyratne, 2003*). It introduced a division of powers between the EU and its member states in the field of regulation of international air connectivity in such a way that member states of the EU couldn't act separately when concluding BASAs with third countries. Since then, this activity has been coordinated by the EU. In general, the EU employed the following approaches to solve the problems identified by the CJEU:

- conducting negotiations between each interested EU member state and its partners and amending each BASA separately;
- conducting negotiations on the conclusion of a single "horizontal" agreement with the EU, which operates under the mandate of the EU member states. Each such agreement is intended to modify the relevant provisions in all existing EU countries BASAs in the context of air connectivity with a third country.

The implementation of the second approach relied on improved EU legislation (EC, 2004), according to which horizontal agreements began to be concluded with the aim of bringing the European Community countries BASAs with the same third country into compliance with the EU legislation. Therefore, in these agreements, the provision on "national designation" has been replaced by the provision on "EU designation". The latter means that any airline based in a particular EC state is entitled to operate flights under a BASA between that state and a certain third country. It should be highlighted that such horizontal agreements do not affect the scope of any air traffic rights or other provisions of a relevant EC country' BASA with this third country (*Air – EC*).

The first "horizontal" agreements were concluded by the EU with the countries of the Western Balkans and Morocco in 2006. As a result of the negotiations, in 2006, a multilateral agreement on the establishment of the ECAA was concluded (*ECAA, 2006*), although it completely came into force only on December 1, 2017. The first EMAA was signed with Morocco on 12 December 2006.

In 2007, the Open Skies Agreement between the EU and the USA was concluded, which provided carriers registered in the EU or the USA with rights to carry out air transportation between any airports in the EU and the USA (*EC – USA, 2007*).

In 2008, a "horizontal" agreement was signed with Georgia, and in 2010, "CAA" was concluded as well. In its turn a "horizontal" agreement with Jordan was signed in 2008 and later in 2012, the EMAA was also concluded. In 2009, a "horizontal" agreement between the EU and Israel was introduced, and in 2013, the EMAA had been signed as well. Conclusion of a "horizontal" agreement with Moldova in 2012 also was followed by signing the CAAA in 2020. Although a "horizontal" agreement between the EU and

Turkey was signed in 2010, their BASA remains in force and so far there is no talk of concluding an agreement on a common aviation area (*Air - EC*).

The "horizontal" agreement with Lebanon was signed in July 2006 and ratified only in 2017. Moreover, with the purpose of expanding ECAA by involving its southern and eastern neighbours, the Council of the EU at the end of 2008 adopted a Decision authorizing the EU to start negotiations with Algeria and Lebanon regarding the ECAA. In the same year, with the above goal, the EU agreed on the ECAA with Tunisia, which was initiated at the end of December 2017. Its implementation, in addition to ensuring high standards of air transportation contributes to an increase in passenger traffic due to the growth of trade and tourist flows between the EU and Tunisia (*Air – EC*). As a result of our systematization, it became clear that the EC employs the following types of international agreements to regulate air connectivity, as shown in fig. 1.

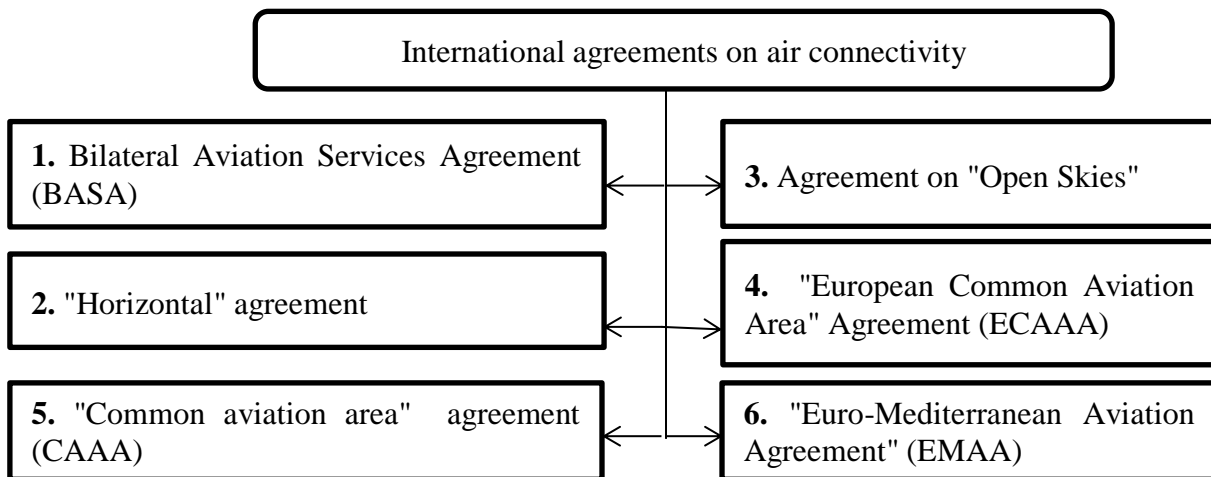


Fig. 1. Types of international agreements on air connectivity used by the European Community

First of all, these are traditional BASAs. Secondly, these are "horizontal" agreements - between the union of states (EU) and an individual state. Thirdly, these are "open skies" agreements that remove most of the restrictions imposed by BASAs. More than 145 countries have concluded one or more such agreements since 1992, i.e. 76% of ICAO members. "Open skies" agreements are also signed by the EU with third countries, which are their key partners, for example, the Air Transport Agreements with the USA and Canada (*EC - USA ATA, 2007; EU – Canada, 2016*). Studies have confirmed that the liberalization of bilateral agreements and the conclusion of an "open sky" contributed to a significant increase in international traffic (*Christidis P. 2016; InterVISTAS-ga2. 2006; Piermartini and Rousova, 2013; Xiaowen et al., 2010; Ovsak and Vysotska, 2021*).

Fourthly, there is the European Common Aviation Area Agreement (ECAA), which in its essence represents a fully liberal "open aviation area" agreement, which abolished ownership restrictions and allowed cabotage (the right of one member state airline to fulfil flights between airports of another member state. Currently, the EU aviation market is the only one in the world that uses a multilateral system with cabotage rights instead of BASAs. It is worth noting that the liberalization reforms of the European Community were initiated in 1987, while the fifth freedom of the air in the EU was added in 1993, and cabotage rights were added in 1997 as well.

And finally, there are agreements on "common aviation area", which regulate uniform standards of transportation within the ECAA countries and third countries. In the Figure 1 we presented them separately as EMAA and CAA agreements. The EC signed EMAAs separately with Morocco, Israel and Jordan, while the CAAs were signed in the same way with countries such as Moldova, Georgia, Armenia and Ukraine.

It should be noted that five of the above-mentioned types of international agreements, namely: BASAs with non-EC countries, "Horizontal", "Open skies", "CAAA" and "EMAA" are referred to as the EU "external" agreements (*The EU's External Aviation Policy, 2012*). And, in fact, the signing of all these agreements became possible after the creation of a single "internal" EU air transportation market with the right of cabotage, accessible to all EU-licensed airlines precisely by concluding the ECAA.

On the other hand, *Abate and Christidis (2020)* considered "horizontal", ECAA and "Open Skies" agreements as the EU "external" aviation agreements. The use of this approach may be related to the goal that the authors of that article pursued - to assess the impact of EU air market liberalization on air fares and demand for air travel services. Whereas the third parties to the ECAA are countries that have not joined the EU but have signed an Association Agreement (the first two parties being the European Community and the EU countries together with Iceland and Norway), in our view five of the six types of agreements (i.e. all but ECAAA) should be regarded as the EU "external" aviation agreements.

4. Results of the analysis of the EU agreements on the establishment and expansion of the European Common Aviation Area

As of 2006, the EU's internal air transport market consisted of the EU member states, Iceland and Norway, according to the regulation established by the European Civil Aviation Conference (ECAC). Concluding the ECAAA was aimed at forming a single air transportation market which could include the Western Balkan region countries (*ECAAA, 2006*). Accordingly, it ensured the use of identical aviation security and flight safety high standards based on the application of ECAC rules.

From an organizational point of view, the ECAAA consists of articles regulating its functioning (the main agreement) and annexes. Annex I contains a set of the EU legislation applicable to the regulation of the following components: A. Market access, B. Air traffic management, C. Aviation Safety, D. Aviation Security, E. Environment, F. Social Aspects, G. Consumer Protection and H Other Legislation. Annex II stipulates Horizontal adaptations and certain procedural rules. Annex III stipulates state aid provision and rules on competition. Annex III stipulates the terms state aid and competition regulation the Rules on and. Annex IV – accordingly stipulates the procedure for the legislative settlement of disputes between the parties. Annex V contains protocols that provide for transitional provisions for each associated country.

As stated in the main agreement, the signatory countries must ensure:

- compliance of the rules of registration, technical conditions and validity of aircraft as well as its crew documents with international safety standards according to the provisions of the Convention on International Civil Aviation;
- application by airports of aviation security standards indicated in Annex I;
- compliance with safety standards and general air traffic standards in Europe, cooperation in air traffic control and the expansion of the "Single European Sky" (*Single European Sky and SESAR*) on the ECAA in order to optimize the capacity of airports and air navigation services;

- application of state aid and competition rules between the parties, if latters are parts of other concluded agreements.

The Agreement uses the term "EU Member" in relation to the EU Member States, as well as "Associated Party" in relation to the countries that signed the Association Agreement with the EU, respectively, the term "ECAA partner" refers to Norway, Iceland and associate party. In turn, the term "ECAA airline" as well as "Community airline" is used to refer to any airline of the parties to this Agreement.

Our analysis showed that all Annex V protocols provide for two transition periods for most of the EU's neighbouring countries. The flight rights set out in the Article "Transitional measures" for "Community air carriers" and air carriers licensed by a third country are identical. However, in the nine protocols of Annex 5, the content of the article "Conditions relating to the transition" is not identical and contains different country specificities. Therefore at the first transition period air carriers of the EU, Iceland and Norway as well as air carriers of a relevant country - neighbour of the EU (Albania, Bosnia and Herzegovina, etc.) have been granted unlimited rights for transportation between any point of a such country and any point of the EU member state. However, the "Community air carriers" must not belong to or be under the effective control of such EU neighbouring country and, accordingly, its citizens and air carriers registered in it.

At the second transition period further to the Community air carriers' rights granted for the first period, a permission to use unlimited rights for transportation between airports in such neighbouring to the EC country and other EU Associated countries is added. Transfer from one plane to another at any airport also is permitted in case that that the flight is a part of the air route. In turn, air carriers that got licensed in a certain neighbouring to the EU country are granted unlimited rights to carry out transportation between airports in different EU member states, as well as passengers of their flights are allowed to transfer at any airport from one plane to another if their flight is a part of the route.

As enshrined in Article 28 of the ECAAA, its provisions take precedence over BASAs ones and/or other agreements concluded between the European Community, an EU Member State, Iceland or Norway, on the one hand, and the Associated Parties, on the other hand, and between countries - associated parties (*ECAAA, 2006*)

As stipulated in Article 32, the on ECAAA can be expanded by acceptance of a country if the latter ensures that all the relevant provisions of the EC legislation are incorporated into its legislation and it has mature economic cooperation with the EU, such as the Association Agreement (or is on the way to it). All amendments are accordingly included in the ECAAA. The Agreement was signed by the parties in June 10, 2006, although it was fully entered into force only in December 1, 2017. Before this period, it was applied partially according to the point 3 of Article 29.

The unification of the EU air transport markets with the subsequent conclusion of the CAA with Moldova, Georgia, Armenia and Ukraine, as well as the signing of the ECAA with Morocco, Israel and Jordan led to a significant expansion of the zone with common high standards in the field of flight safety, aviation security, environmental protection, as well as expanded competition. The latter arose due to the provision of expanded access of European low-cost airlines to the domestic aviation markets of the EU partner countries of such agreements. Details of the growth of the low-cost airline network through the conclusion of multilateral agreements were set out in *Landru et al. (2021)*. In addition, it was proved by *Abate and Christidis (2020)* that the EU's external aviation policy, which

was carried out by concluding "horizontal," CAA and "open skies" agreements for 14 years, led to an increase in passenger traffic by 27%.

Although all signed CAAAs and EMAAs stipulated identical restrictions on property rights for all partner countries, the commercial rights of (i) "Community airlines" and (ii) of "airlines of third countries" regarding routes remained asymmetrical: "Community airlines" were granted cabotage rights to fly in third countries. It is worth mentioning that the rights to access the markets of such third countries for any "Community airline" are similar and of a larger volume than for any airline of a third country. In all CAAAs, third countries airlines commercial rights are also similar as well as the ownership rights and affiliations of the airlines. At the same time, the agreements of the CAA and EMAA contain a clause of impossibility of getting support from the government of the EU partner country to its national airline without informing and agreeing. Based on the above, the issue of ensuring equal competitive conditions for all airlines remains unresolved.

According to the results of the systematization it turned out that ECAAA and CAAAs most fully "open" the sky of partner countries for the "Community airlines", i.e. the countries created the European Common Aviation Area. At the same time, airlines licensed by partner countries remain equally limited in competing in the European market, until these countries became the EU members. In order to prepare for this key stage, timely incorporation of the EU Directives into the national legislation of partner countries is necessary, which will facilitate the gradual adaptation of their national airlines and will promote their competitiveness in the future. As it is stipulated by the ECAAA (Article 32), after the acceptance of an ECAAA partner country to the EU membership, its ECAAA status changes accordingly from the "Associated Party" to the "EU member", as had happened to Bulgaria, Romania and Croatia. In turn, the EU partner country under the agreement regarding CAA, after its accession to the EU, will sign the agreement ESAA, that is, its status will be upgraded so that its airline will become «Community Airlines». Such a prospect is expected for Moldova and Ukraine, which, at the moment, having an Association agreement with the EU, are aimed at doing their best to gain EU membership. Therefore, the signing and implementation of CAAA with a new neighbouring country in fact contributes to the future expansion of the European Common Aviation Area.

5. EU agreements with partner countries on "Open skies"

As stated in section 2 above, as a result of the transport policy of liberalization of international air transport markets, the EU concluded special agreements on air transport connections with such strategically important partner countries as the USA and Canada. Below are the results of a substantive review of both agreements.

The "Air Transport Agreement" (ATA) concluded in 2007 by the USA and the EU and its member-states is often referred to as an "open skies" agreement precisely because of the expanded list of commercial rights: it granted airlines the rights of third, fourth, fifth and seventh (albeit with some restrictions) "freedoms of the air" (*EU-US ATA, 2007*).

Being based on the concept of a "Community carrier", this agreement allows all EU licensed airlines to fly to the United States departed from any airport of the European Union, regardless of its location (applies to cargo and passenger flights). In particular, Community airlines are allowed to perform routes outside the US and the EU without any restrictions on the number of flights or airplane types (referred to as "5th freedom of the air"), as well as to use the unlimited "7th freedom of the air" to carry out cargo air transportation, while that certain restrictions are imposed on US airlines in relation to EU

countries. In terms of passenger transportation, the agreement allowed EU airlines to operate 7th freedom flights, with some restrictions, between the US and any ECAA airport, while US airlines were not granted such rights. Unlimited code sharing stipulated which two or more airlines were allowed to jointly operate one flight. In order to perform international flights, the EC licensed airlines were allowed to wet lease aircraft to US airlines.

In addition to the above, the US – EU "open skies" agreement provides for free pricing, but limits the ability of US airlines to set tariffs for intra-European routes. The agreement details the terms of both franchising and branding to prevent the expansion of EU airlines in the US air transport market.

The agreement determines the issue of ownership and control, but separately in relation to airlines of different affiliations: "US airlines", "EU airlines" and "Non-EU country airlines" and using different regulatory indicators. The indicator of the ownership share of EU citizens in the capital of "US airlines" should be up to 49% of their total capital. However the voting shares indicator used to estimate the amount of investment from the US in an "EU airline" should not exceed 25%. Furthermore, this agreement provides that the US will accept any EU-licensed airline that is owned and controlled by EU or ECAA residents (*EU-US ATA, 2007*). In turn, the agreement stipulates that "non-EU airlines" unilaterally recognize US and EU ownership and control over any airline licensed in 18 African countries or in a member country to the European Economic Area or ECAA. However, American air carriers were not left to fend for themselves: as *Morrison and De Wit (2016)* demonstrated that after the conclusion of the "open skies" agreement, the US government allocated subsidies for domestic American airlines to ensure their competition.

The parties to the "Open Skies" agreement also cooperate in the regulatory sphere, in particular in: (i) security - in the direction of "minimizing regulatory differences in security measures"; (ii) security - through consultation and cooperation in the event of security concerns of the parties; (iii) competitive and regulatory policy regarding the transatlantic air transport market; (iiii) coordinating the provision of government subsidies; (iiiii) environmental protection - in the direction of strengthening cooperation in improving fuel efficiency and reducing air transport emissions (*EU-US ATA, 2007*). The ATA concluded the EU with the USA, like all CAAAs, has two phases of implementation as well (*EC - USA ATA, 2007*). It was the subject of a second phase agreed in 2010 to provide additional investment opportunities and expanded market access.

At the end of 2009, an agreement on air connectivity between the EU and Canada was concluded. It is currently considered to be the most ambitious agreement in the air transport industry concluded by the EU with a major external partner due to the unprecedented level of both market liberalization and foreign investment in airlines (up to 100%). The latter is implemented in stages and depending on the state of implementation of the expansion of air traffic rights of partners. The "Strategic Partnership Agreement" and the "Comprehensive Economic and Trade Agreement" concluded in 2015 and 2016, respectively, are essential factors in such a wide-scale development of cooperation between partners (*EU – Canada, 2015; EU – Canada, 2016*). At the first stage of the implementation of the EU-Canada ATA, the provision of ownership and control to partners is also limited to a 49% share in the total capital of partner airlines, similar to the EU conditions in the EU-US ATA. Table 1 contains main results of comparison analyses among types of multilateral agreements on air connectivity used by the European Community, which develops the discourse initiated by *Piermartini*

and Rousova (2008, 2013) as well as Abate and Christidis (2020) by comparing different types of multilateral agreements, and revealed new patterns.

Table 1 Key features of ECAAA, CAAA and Open Skies used by the EC

Type of agreement Key feature	European Common Aviation Area Agreement (ECAAA)	"Open Skies" agreement	Common Aviation Area Agreement (CAAA)
Cabotage rights	Allowed	Allowed only to EC air carries and not allowed to partner country airlines	Allowed only to EC air carries and not allowed to partner country airlines
Restrictions on the ownership and nationality of air carriers	do not apply to EU air carriers, but are imposed on other country air carriers	Imposed	Imposed
Foreign ownership and control air carriers of partner countries	Allowed only for the EC air carriers and prohibited to other partner country air carriers	Some restrictions affect both EU air carriers and air carriers from other partner countries.	Some restrictions affect both EU air carriers and air carriers from other partner countries.

The investigation showed that CAA and "Open Skies" agreements have a lot in common: ensuring the unification and similarity of safety and environmental protection standards, the presence of restrictions on the ownership and nationality of air carriers as well as for share of foreign investment. At the same time, the commercial rights of US airlines for flights between airports within the EU are limited, as are the rights of third-country airlines in the ECAAA and CAAA. However, these types of agreements often provide uniform standards for the organization of air traffic. It also can be stated that the integration processes in the aviation industry ensure greater liberalization, in particular, in the ownership and investments of airlines, if they are accompanied by extensive cooperation between partner countries, as is the case in relations between the EU and Canada.

6. Results of the content analysis of the CAAA concluded by the European Community with Ukraine

Air traffic between Ukraine and the EU countries was based on BASAs with all member states. The "horizontal" agreement was concluded in 2005. In its turn the negotiations on the signing of the CAAA began immediately after starting the dialogue on the preparation of the Association Agreement with Ukraine, however its signing took place only on October 12, 2021 at the 23rd Ukraine-EU Summit (*Ukraine – EC, 2021*). This Agreement regulates the establishment of a single list of rules for the provision of air transportation between the EC and Ukraine. To enable this, the parties agreed to cooperate in order to provide the gradual incorporation into Ukrainian laws all the standards and requirements and of the EU legislation (a full list of which is detailed in Annex I to this Agreement).

The structure of the Agreement generally corresponds to similar agreements signed by the EU with some neighbouring countries. But it should be pointed out that the CAAA with Ukraine has its own peculiarities, related to the availability of a large aviation complex in Ukraine. The latter were reflected in Article 12, which regulates the cooperation of partners in the production sphere. The first direction of cooperation covers the development of business relations between manufacturers of aviation equipment of Ukraine and partner countries, while the other directions specify it. The analysis of

Appendix 1 showed that most of the requirements and standards relate to such components as: (a) aviation safety (Article 7), (b) aviation security (Article 8) and (c) air traffic management (Article 9). Tables 2 to 3 below present the results of the analysis of the state of integration of EU regulations referenced in the CAAA (Annex I articles) into Ukrainian legislation.

Table 2 - Incorporation of EU Regulations referenced in the CAAA into the legislation of Ukraine (in the part related to access to the aviation market and related issues)

EU Regulations subject to incorporation into the legislative system of Ukraine	The state of implementation of relevant EU Regulations into national legislation
Regulation No. 1008/2008 of the European Parliament and the Council of September 24, 2008 on general rules for air transportation, as amended	Amendments to the “Air Code” of Ukraine, the Law of Ukraine "On Licensing Types of Economic Activity" and the Law of Ukraine "On Basic Principles of State Supervision in the Field of Economic Activity".
Regulation of the Council (European Economic Community) No. 95/93 of January 18, 1993 on common rules for the allocation of slots at Community airports, as amended	The principles of slot allocation in accordance with Council Regulation (EEC) No. 95/93 are provided for in the “Air Code of Ukraine”. The procedure for allocating slots at the airports of Ukraine is regulated by the “Procedure for Allocating Arrival and Departure Time Intervals at International Airports of Ukraine”, approved by Order No. 645 of the Ministry of Transport of Ukraine (July 16, 2004).
Council Directive 96/67/EC of 15 October 1996 on access to the ground handling market at Community airports	Development of the “Aviation Rules of Ukraine” - the part "Access to the ground handling services market and rules for certification of aviation entities providing ground handling services"
Regulation No. 785/2004 of the European Parliament and the Council of April 21, 2004 on insurance requirements for air carriers and aircraft operators, as amended	Compulsory aviation insurance of civil aviation in Ukraine is carried out according to Articles 117-118 of the “Air Code of Ukraine” and to the “Procedure and rules for compulsory aviation insurance of civil aviation (with amendments)”, approved by the Resolution of the Cabinet of Ministers of Ukraine (06.09.2017 No. 676), which meets provisions of the “Convention for the unification of certain rules of international air transport” concluded in Montreal 05/28/1999 and Regulations (EU) on insurance requirements for airlines (except for limitations of liability to third parties, concerning flights within territory of Ukraine, however is applicable to international flights).

Table 3 - Incorporation of EU Regulations referenced in the CAAA into the laws of Ukraine in the part related to protection of consumer rights and the environment

EU Regulations subject to incorporation into the legislative system of Ukraine	The state of implementation of relevant EU Regulations into national legislation
C. Environment	
Directive of the European Parliament and the Council 2002/49/EC (June 25, 2002) on assessment and management of environmental noise with amendments.	The “Aviation Rules of Ukraine” - the part of "Requirements to the airport operator regarding the spatial zoning of the territory around the airport from the conditions of exposure to aviation noise" were adopted (order of the State Aviation Service of March 26, 2019 No. 381).
F. Protection of consumer rights	
Council Regulation No. 2027/97 (October 9, 1997) on the regulation of air carrier liability issues in case of accidents, as amended.	The provisions of EU Regulations 261/2004, 1107/06 and 2027/97 are fully implemented into the Ukrainian laws. In particular, into the “Aviation Code of Ukraine” (Articles 100, 102-107), as well as into the “Aviation Rules of Ukraine” – the part "Rules of Air Transportation and Service of Passengers and Baggage", approved by the order of the State Security Service of Ukraine No. 1239 (November 26, 2018).

As it could be concluded from the analysis of the CAAA implementation status it is necessary to make changes to the following Ukrainian laws: "Air Code of Ukraine", "On Licensing of Types of Economic Activities" and "On Basic Principles of State Supervision in the Field of Economic Activity" as well as to approve the "Aviation Rules of Ukraine" - the part "Access to the market of ground handling services and rules for certification of aviation entities that provide ground handling services".

The analysis of Appendix I: "C. Environment" showed the compliance of legislative acts and regulations of Ukraine with the relevant EU Regulations. Most Ukrainian airports, fulfilling the requirements of the Aviation Rules of Ukraine" (No. 381), periodically publish on their websites the results of measurements of aviation noise. The latter serve as the basis for monitoring the implementation of measures to reduce the level of aviation noise. The EU regulations "Consumer Protection" listed in Appendix F are fully implemented in the article of both the "Air Code of Ukraine" and the "Aviation Rules of Ukraine" (in the part "Rules for air transportation and passenger and baggage service."

Annex II regulates the implementation of changes in the commercial operation of contractual airlines, in particular the following provisions:

1. Airlines of the partner parties are granted the following rights regarding the provision of air transportation services on the below described routes:

(a) for the EU air carriers: a route between any airport in the EU through intermediate airports within the territories of countries - partners of the European Neighbourhood Policy, countries of the ECAA Agreement to any airport in Ukraine and further to airports outside its borders;

(b) for airlines of Ukraine: the route from any airport in Ukraine - through intermediate airports located in countries that are partners of the European Neighbourhood Policy, countries of the ECAA - to any airport in the EU.

(c) EU air carriers are also allowed to perform air transportation between airports in Ukraine, regardless of whether such transportation begins or ends within the EU (*Ukraine – EC, 2021*).

The term "European Neighbourhood Policy Partners" now refers to the 16 countries with which the EU has relevant relations (*ENP, 2023*).

In terms of CAAA implementation conditions, it is informative to review Appendix III which governs transitional arrangements. As it stipulated, the Ukraine's implementation of this agreement takes place in two successive stages. Having fulfilled the following list of requirements and standards Ukraine will move to the second stage. Firstly, these are the rules for licensing air carriers that must fully comply with those used in the European Union (Resolution No. 1008/2008 of the European Parliament and the Council of 24.09 2008. Secondly - regarding aviation safety - it is necessary to include "Part II of Document 30 ECCA" in the latest edition. (*Ukraine – EC, 2021*).

So the Agreement allows all EU air carriers and air carriers with licenses issued in Ukraine to use the commercial rights of the 5th air freedom, the only thing that Ukrainian airlines cannot operate flights between airports of one EU country. Their routes can also include airports of countries – ENP Partners.

Whether there will be a positive effect on passenger traffic from the signing of the CAA is currently difficult to predict. It can be argued that there was a significant positive impact on passenger traffic of Ukrainian airports due to the gradual liberalization of BASAs (despite the fact that the "horizontal" agreement with the EU was signed in 2005). Therefore, the conclusions made by *Christidis (2016)*, as well as *Maertens and Grimme*

(2019), in particular regarding the absence of a significant impact on the growth of passenger traffic from the conclusion of "horizontal" agreements, can be considered correct regarding the case of Ukraine. Thanks to the gradual liberalization of BASA since 2016, the passenger air transport market in Ukraine had been actively developed with passenger traffic growth rate of about 30% in 2017-2019 (*Ovsak and Vysotska, 2021*). And as presented in *Ovsak et al. (2021a)*, at that time in the aviation market of Ukraine there was an increase in both the number of flights and passengers carried by low-cost airlines licensed by the EU and Turkey, while the overall volume indicators of this market also increased. It was a period of active growth of international air transportation in Ukraine, which was facilitated by the opening of a "visa-free" regime with the EU and the economic development of the country. This confirms the conclusions made by *Landru et al. (2021)* that implemented multilateral agreements accelerate the growth of the low-cost airline network. Despite the negative impact of global anti-pandemic COVID-19 measures on air travel, Ukraine managed to reach a rapid upward trend in 2021 (*Ovsak et al., 2021b*).

Unfortunately, due to the war, which began at the end of February 2022 and has been going on for two years, the air transport industry and the entire economy of Ukraine suffer extremely heavy losses. However, Ukraine's air transport continues to make its contribution to the country's economy. Currently, air carriers that have a valid license, issued according to the requirements and procedures for flight operation in civil aviation, approved by the State Aviation Authority of Ukraine, perform flights for the transportation of passengers and cargo, in particular, in the countries of the EU (*Ovsak and Sadlovska, 2022*). Currently, Ukrainian airlines actually operate routes in accordance with the 7th freedom of air, which in this case should be considered as a shortened version of the 5th freedom of air, and not an extension of the 6th freedom of air, following the clarification on air freedoms presented by *Maertens and Grimme (2019)*.

7. Conclusion

The activities of the European Community contribute to the further liberalization of the air transport market, as well as the development of integration processes in the aviation industry using bilateral, regional and multilateral approaches. The European Common Aviation Area Agreement has created the world's only air travel market that uses a multilateral framework with cabotage rights. Considering the fact that this agreement has a primary intra-European context, we assumed that the modern EU external policy is implemented by the BASA, "Open Skies", "Horizontal", CAAA and EMAA agreements. In addition, these agreements can be grouped into three clusters that cover certain segments of the EU' external policy.

The first cluster consists of BASAs and Horizontal Agreements. Through a horizontal agreement between the EU and the BASA partner country, any European low-cost airline was entitled to be designated carrier in that country. At the same time, as demonstrated by *Cristidis (2016)* for Russia and Turkey and *Ovsak, etc. (2021b)* for Ukraine, the more liberal BASA conditions are, the more developed the air transport market.

The second cluster may be represented by the "Open Skies" agreements concluded by the European Union with strategic partners such as the United States and Canada, which contain quite a few similar key provisions to the CAA agreements. Both types of agreements have provisions to ensure harmonization and convergence of safety, security and environmental standards, as well as restrictions on airline ownership, nationality and investment. Namely, both "Open Skies" agreements and CAAA provide a wider list of

commercial rights exclusively for the EC's airlines. Moreover the commercial rights of US airlines to fly between airports located within the EU are limited, as are the rights of any EC partner - country airlines in the CAAA. Therefore, we have to agree with *Christidis (2016)* that "open skies" and CAAA can be considered EU agreements with key strategic partners. It is also worth mentioning that, if integration processes in the aviation industry are accompanied by extensive cooperation agreements between partner countries it leads to greater liberalization clauses in ownership and investment to the both parties' airlines. The latter is inherent in EU-Canada relations.

The third segment of the external aviation policy of the EU is covered by a cluster of agreements on ECAA, CAA and EMAA. Although the first two above-mentioned clusters of multilateral agreements work to liberalize the EU aviation market and the partner country, the third cluster is more aimed at deepening the integration of the partner country into the ECAA. The merger of the EU air transport markets, followed by CAA and EMAA, led to a significant expansion of the area with common high standards in flight safety, aviation security, environmental protection and increased competition. Moreover, the signing and implementation of CAAA with a new neighboring country in fact contributes to the future expansion of the European Common Aviation Area. As soon as such a country is admitted to the EU, it will sign the ECAAA with the issuance of an additional protocol to Annex V, which will upgrade its airlines to «Community Airlines» with corresponding extended cabotage and property rights. This optimistic scenario is expected for Moldova and Ukraine, which are now in association with the EU and are doing their best to join the EU in the foreseeable future.

In recent years, the Government of Ukraine has been actively working on the implementation of CAAA, in particular on the incorporation of EU Regulations into the legal system of Ukraine. The success is evidenced by the fact that since 2022, when the airspace of Ukraine was closed because of Russia's war against Ukraine, the national airlines of Ukraine have been operating flights between the airports of the European Community and neighbouring countries.

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