

# Open Skies with EU will get its first test in Lviv

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On April 1, the Infrastructure Ministry chose Lviv to test run a program that will allow the western Ukrainian city to accept direct flights from the European Union without any restrictions.

It was the latest step to bring Ukraine closer to uniting its airspace with the 28-nation political bloc in an agreement commonly known as Open Skies. In theory, the deal should foster free and fair competition and lead to market prices for flights once all the barriers are removed.

Negotiations with the EU started nine years ago and the agreement was initiated at the Eastern Partnership summit in Vilnius on Nov. 28, 2013. Ukraine has since been concluding agreements with each EU country individually.

Gibraltar is the biggest risk to Ukraine's accession because of an international dispute between Spain and Great Britain which has lasted since the early 18th century.

Ukraine's President Petro Poroshenko "is personally involved in discussing this issue with the head of European parliament, the highest levels of bureaucracy in the European Union, so I think we will seal this agreement in the nearest future," Infrastructure Minister Andriy Pivovarskiy told the Kyiv Post by phone.

As a potential Open Skies member, Ukraine also must comply with safety, security, competition, environmental and passenger-protection issues. But membership for Ukraine also depends on other European political issues well out of its control.

It involves Great Britain's dispute with Spain regarding the Gibraltar airport. Both haven't agreed to which country the strait belongs. Citing the unsettled dispute, Spain in October withdrew its approval of Ukraine as an EU Open Skies member.

"If you talk about Georgia and Israel, they signed this agreement without any problems," says Andriy Huk, an aviation specialist lawyer who provides services to such airlines as Lufthansa, Emirates and British Airways.

"We are hostages of the situation between Spain and Great Britain," Pyvovarskiy said on March 24, cited by Center for Transport Strategies, a transport and infrastructure research and consulting center.

Pyvovarskiy discussed the issue with the ambassador of Great Britain to Ukraine, Simon Smith, at a meeting on April 2 during which the ambassador said that the issue has existed since 1713 and is merely a bilateral problem.

In the meantime, Ukraine's air travelers and industry wait.

Vitalii Vlasiuk, managing partner at law firm ePravo, says that Open Skies is good for Ukraine. "This is part of our European integration and into the world economy in general," he said.

From a legal standpoint, everyone should benefit since there will be less bureaucracy and common rules.

The EU's first such agreements were signed with Albania, Bosnia-Herzegovina, Croatia, Montenegro, Macedonia, Serbia and Morocco in 2006. Georgia and Jordan followed in 2010, and Moldova joined in 2012.

In 2013, Ukraine's total turnover of air transportation services was \$2 billion, according to the State Statistics Service. But the market has contracted substantially since Russia's annexation of Crimea and the closing of Donetsk and Luhansk airports amid Russia's war against the eastern Donbas.

Pyvovarskiy wrote in a column recently on Ekonomichna Pravda's website that all airlines operating in Ukraine's market, including the dominant Ukraine International Airlines, support the agreement.

The Lviv experiment works only on

a unilateral basis in which EU flights can freely fly to the city.

Airlines flying out of Ukraine will still need to get permission from the EU side on a bilateral basis.

If that is the case, Oleh Marchenko, partner at law firm Marchenko Danevych, suggests that Ukraine grant the same freedom for all of its airports until the EU agreement will be implemented.

Huck estimates that it will be at least five years before Ukraine sees benefits.

"Signing this agreement will just mean that we will start a lot of work," Huck says. About 800 regulations need to be adopted by Ukraine to meet EU standards. Only after this, Ukraine will receive full access to European routes.

Given the long-term nature of the agreement, however, "not every airline will be able to withstand the rules that will go in force after signing Open Skies," Atlasjet Ukraine CEO Serhiy Pidhorodetsky said in an emailed statement.

Another outcome, according to Huck, is that international airlines will start investing in upgrading Ukraine's outdated airports.

Membership will create greater opportunities for budget carriers to enter Ukraine's market, allowing Kyiv's Boryspil International Airport to compete with such major airports as Istanbul's Ataturk as a hub for East-West transit routes.

Marchenko added that Open Skies will also "destroy" the monopolistic "structure" of Ukraine's commercial aviation market dominated by Ukraine International Airlines.

"The Ukrainian commercial aviation market is very regulated on one side and very monopolized," Marchenko said. "It's really a difficult task that the Ministry of Infrastructure is facing now."

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## BUSINESS ADVISER

# TIME TO FLY



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The latest couple of weeks have been intense in the aviation sphere. Wizz Air announced a wrap-up of their Ukrainian market operations. The State Aviation Service of Ukraine limited the number of Belavia flights in an attempt to reach parity with the air carrier of Belarus; the Minister of Infrastructure announced Open Skies over Lviv.

All these reports led to an outburst of publications and discussions in mass media. For example, some believe Wizz Air was pushed out from the market, unavoidably leading to the monopolization of Ukrainian aviation. Others are accusing the national air regulatory authority that it is lobbying interests of a certain carrier. Whereas others are demanding Open Sky benefits not only for Lviv, but for the whole territory of Ukraine without any restrictions.

Below we provide a brief analysis of past events and their consequences.

### 1. The Wizz Air departure and competition.

It should be stated that it was not exactly Wizz Air that made the Ukrainian air carrier market competitive. The business itself, and hopefully, the government too, have realized that the main competitors of Ukrainian air carriers are the international air carriers — our northern neighbors which included air carriage support as part of their governmental policy. Traditionally these were European air alliances and Turkish air lines which have built and are continuing to develop a powerful hub. Wizz Air didn't surprise the Ukrainian consumer with low fees or a developed internal flights network as it was announced when the company entered the market. At the same time, the low-cost model elements (flexible pricing, optional onboard catering etc.) are actively used by classic air carriers today. Thus, Wizz Air has become just one of the many airlines working in the Ukrainian market. True, their policy has always been noted for exceptional pragmatism — minimal expenses and long-term investments in Ukraine. As the experts note, they did not have any interest in developing the Ukrainian market and their decision to leave is yet another eloquent confirmation of this: as soon as the economic situation deteriorated and the number of profitable flights went down, the company immediately decided to liquidate the Ukrainian branch without thinking twice. No politics, just sheer business. When the situation improves, they will probably return. Although one cannot name it exactly as departure: as it has been announced, the low-cost operator intends to continue flights to Ukraine only under the Hungarian flag. In general, the decision of the Hungarian company to start operations in Ukraine through its head office is unlikely to lead to termination of competition in the sphere of Ukrainian aviation. Also, it would not cause any significant effect upon the market whatsoever.

### 2. In truth, the situation with Belavia is another routine event.

The Belarusian counterparty that obtained a right to 14 frequencies per week refused to provide the same number of flights to the Ukrainian air carrier. As a result, the State Aviation Service of Ukraine had a good reason to restrict Belavia's right to perform carriage between Kyiv and Minsk. This led to negotiations involving the Belarus aviation authorities where in the end a desired compromise was reached. All regulatory authorities apply this practice in similar situations, and this is one of the main goals of the state — to protect the national market. For example, the aviation authorities of Germany acted in a similar way in the conflict between Lufthansa and Ukrainian air carriers: the Ukrainian airlines could not acquire a sufficient number of frequencies until the German airline flagship was given convenient slots. Or, another example, the European regulatory authorities repeatedly refused to provide an increased number of frequencies to the UAE airlines to protect the European market. So it could be stated that the air regulatory authorities of Ukraine are able to implement adequate policy of protecting national interests quite efficiently.

### 3. Open skies over Lviv.

This is probably the most recent resonant event of the Ukrainian aviation market. Of course, it is still not clear how to implement this idea in reality. Ukraine has been bound to over forty countries under bilateral agreements, and not every agreement permits Open Skies. There is also internal regulation sufficiently limiting the Minister's initiative. In the end, the conflict regarding who issues flight permits (the Ministry of Infrastructure or the State Aviation Service) has to be resolved soon. The old regulations approved by the Ministry during Viktor Yanukovich's ruling contained great corruption risks and were declared being illegal by the court. However, the court decision has not been enforced yet, and the new rules developed by the State Aviation Service have not been published. Nevertheless, the idea is very interesting. Our northern neighbors have applied similar methods: in 2011, the Russian Federation opened skies over Vladivostok. Then, half a year ago the skies over Sochi as an experiment, and the open-skies mode was also introduced in Kaliningrad during the end of 2014. All the specified airports are similar in having no powerful carrier, and the aviation authorities aimed for attracting both foreign and national companies. The agreements on opening skies took into account the mutual interest of Russian air carriers as a rule. Certainly, the Russian experience cannot be bluntly applied to the Ukrainian reality: their market has more capacity and absolutely different ranges; the Russian government exercises much more aggressive protectionist policies and develops the internal carriage market actively. Besides, it is already clear that not all of these experiments will be successful. The initiative of the Ukrainian minister to Open Skies over Lviv can serve as a positive signal for all investors.

To sum it up, despite the deep economic and political crisis we have been enduring, the Ukrainian authorities and business demonstrate the intention to make Ukraine a powerful and independent player in the global aviation market. Judging by the rates and quality of reforms, the aviation sphere could be a great example for other branches of the Ukrainian economy.



A propeller plane of Poland's EuroLOT airline stands parked at the Lviv Airport on May 16, 2012. (Ukrainian photo)



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