

**«AZERBAIJAN AIRLINES»  
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*Written by:*

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**THE THEORETICAL AND PRACTICAL PROBLEMS OF “FREEDOMS  
OF THE AIR” IN THE INTERNATIONAL AIR LAW**

Specialty: 5603.01– International law; human rights

**ABSTRACT**

**of a thesis submitted for competition of doctoral degree of (Ph.D.) dissertation**

## GENERAL DESCRIPTION OF DISSERTATION

**Actuality and importance of the topic.** The civil aviation with about one century history was established with a wish of men to master the skies and presently became one of the fields having fast development period. From other side that, despite the air transportation industry is the youngest among other transportation industries, maybe, this field nowadays is considered to be the most popular and most convenient international travel mean. The aviation, which became the most important field in establishing of air transportation links with all points of the world is always at focus of states and international organisations. It drives from the fact that civil aviation is considered as the most effective tool in establishing and development of interstate economic and social links. Today international civil aviation being the most reliable and speediest transport facility in the system of global transport significantly influences on international economic development process and is accepted as an important part of global infrastructure.

It is worth to note that in 2012 the number of air travellers was 2 billion and the volume of cargo shipped by international air carriers made over 60 mln. tonnes. According to the International Air Transport Association (IATA) in 2013 the demand for international transportation 6% and for international transportation has 4% increased. It should be also noted that also in Azerbaijan in the first 6 months of the year 2013 the number of air travellers and the volume of cargo shipped by air have increased in comparison of the same period of the year 2012. In this regard, according to report of the mentioned period of the State Statistic Committee of the Republic of Azerbaijan 590,1 thousand or more than 10,1% passengers have travelled. International passenger and cargo shipments, which are carried out on regular and uninterrupted basis among 194 countries of the world in general, have a significant influence on international air transportation economy.<sup>1</sup>

Today's progress of the aviation, its future development prospects make focus constantly on issues of improvement of legal regulation of this field. The international air law has a significant role in modern law system from viewpoint of relations regulated by it. In recent years both in foreign countries and national law literature as well, the study of theoretical and practical problems of air law is one of the matters, which considerably attracts the attention of lawyers-scientists. In general, since the commencement of development era of civil aviation, states tried to keep in focus and under control the legal regulation of commercial activities of airline companies in own areas. Each aircraft operator–airline uses the certain commercial rights, which allows it to carry out commercial activities by transporting passenger, cargo and mail among certain points during air transportations. Other name of these commercial rights in international juridical literature is characterized as “air freedoms” (or air traffic rights). The term of “freedoms of the air” defined in international legal acts of the air transportation field is self includes types of legal regulation of commercial activities of international air traffic. The given term, to say simply, expresses the right of flight operations. These rights have decisive importance in organization of international air transportation. The commercial feature of mentioned rights based on fact that

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<sup>1</sup> Egorov S. A. International law: Учебник / 5-е изд., перераб. и доп. – М.: Статут, 2014, с. 521.

these rights mean payment of fees. The term named as “freedoms of the air” in international air law entitles in general the airlines to carry out the commercial activities. In other words the rights of transportation form the collection of commercial rights. From this point of view the rights commented above comprise the main line of proper regulation of international air traffic. In the modern international juridical literature the matter of commercial rights (air traffic rights) in legal regulation of air services are considered as one of the main problems. In general, the commercial rights in the international air law are considered as complex rights allowing airlines to carry out passenger, cargo and mail transportation. At implementing of international air transportation the flying rights of carrier airlines come to the fore. The more purposeful formation of some theoretical issues related to “freedoms of the air” being analyzed comparatively, constant improvement of international and local legislation related to these rights, the solution of legal aspects of important problems existing in practice within international standards are considered to be one of the most important and necessary directions of modern international air law. The more agreements on air traffic in the world, the more perspectives of problems connected to commercial rights stipulated in this agreements and its realization. From this point of view the theory of mechanism regulating legal aspects of commercial activities of airlines, the level of importance of its influence on practice and improvement of legislation base in the corresponding field should be clearly investigated. Numerous matters related to legal regulation of “freedoms of the air” were not resolved in the international juridical literature and therefore the topic is distinguished with its urgency. As a result, there is a great need in comprehensive researches in this field. Referring to above-mentioned the topic of research has both theoretical and practical importance, it is modern and actual for being selected on time.

As it is seen the study of both theoretical and practical problems of “freedoms of the air” within the international law and elimination is considered as urgent topic of today.

**The framework of research topic.** In the juridical literature of Azerbaijan the international air law began to be studied from the 80-es of last century. It should be noted that lawyers-scientist, authors of textbook in the field of “International law” L.H.Huseynov, R.F.Mammadov, etc had commented international air law in summarized form. The given scientists had analyzed in brief one of the main fields of the international air law - “freedoms of the air” (air traffic rights). At the same time E.A.Aliyev particularly noted the “freedoms of the air” while commenting the issues related to legal regulation of international air transportation in textbooks “International transport law”, “Legal regulation of international transportations”, and gave certain explanations. The clarification of basic features of “freedoms” is found in many articles of lawyer-scientist İ.O.Guliyev. Besides it scientific-research works of lawyer-scientists F.İ.Gurbanova “Norms of international air law and legislation of the Republic of Azerbaijan (matters of mutual relation)”, G.Z.Bashirova’s “Problems of legal regulation of international air services in the Azerbaijan Republic”, S.Kh.Murshudova’s “Constitutional and legal propositions of security of civil aviation in the Republic of Azerbaijan”, A.A.Mammadov’s “The problems of

implementation of the international law norms in the civil aviation activity of the Republic of Azerbaijan” are also considered important research papers dedicated to some areas of international air law. It becomes clear that international air law was not sufficiently studied in our country and is less studied legal field. Only in dissertations of A.A.Mammadov and G.Z.Bashirova, among those research works mentioned above, there were some general remarks on “freedoms”. Today there is no great interest in our country on broad and comprehensive study of one of the main subjects of the international air law – “freedoms” by scientific community.

But in neighbouring Russia there are sufficient scientific-research works and monographs even since the USSR period, since 1960es related to this subject. From Russian scientists that well-contributed to the study of this legal area and defining many important directions in matters connected to international air law and “freedoms” we can note the names of A.N.Vereshagin, V.S.Gryaznov, V.N.Dezhkin, A.A.Batalov, M.Keyta, V.D.Bordunov, Y.N.Maleyev, A.P.Movchan, A.I.Kotov, Y.M.Kolosov, I.A.Kruglova, A.N.Brylov, A.V.Mezentsev, A.I.Travnikov, M.N.Kopylov, F.I.Saprykin, S.S.Yuryev, B.P.Yeliseyev, V.A.Svirkin etc. Among these lawyer-scientists, we can note the works of V.S.Gryaznov, Mahammad Keyta, A.A.Batalov, F.I.Saprykin, which namely cover some parts of study of problems. From them we can refer to Mahammad Keyta’s dissertation work “Legal regulation of commercial activities in international air services” defended by author in 1990, dissertation work “International–legal problems connected to using of air space of the Commonwealth of Independent States (CIS) countries” of F.I.Saprykin, successfully defended in 1996, research paper of V.S.Gryaznov “Some trends of international legal regulation of air transport”, published in 1996 in Moscow’s journal “The International law”, etc. And dissertation work of A.A.Batalov “Present-day International Legal Regulation of Air Services: theory and practice” defined by him in 2003 in Moscow is considered as one of the complete and modern monographic research works written in recent years. Matters of legal regulation of “Freedoms of the air in international air law” were covered specifically not only in research works of Russian lawyer-scientists but at the same time of some international lawyer-scientists.<sup>2</sup>

At post-war period of World War II the monograph of famous lawyer W.Wagner «Freedoms of the air» appeared as one of the significant works written in this field.<sup>3</sup> In general, in XX century some lawyer-scientists of the world wrote important research papers related to legal regulation of air services and analysis of “freedoms of the air” in the international air law: P.Fauchile, A.Ambrosini, M.Lemoine, E.Pepin, A.M.Bradley, J.C.Cooper, Van der Tuuk Adriani, J. Naveau, M.Zylicz, Nicolas Mateesco Matte, M.Milde, Peter P. C. Haanappel, Henry Abraham Wassenbergh etc.<sup>4</sup> We must note in particular the name of Dmitri Andriotis, one of the scientists studying the topic of “freedoms of the air” in recent years. He had defended in 1993 in Institute of Air and Space Law of McGill University of Canada the dissertation work named “Commercial rights in International Air Transport and their regulatory regime on the eve of the twenty-

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<sup>2</sup> Batalov A.A. “Present-day International Legal Regulation of Air Services: theory and practice” Moscow – 2008, p. 27-52;

first century: a diabolic issue?” and made attempts to cover some legal problems in research paper related to «freedoms of the air».<sup>5</sup>

Presently, we may note some international scientific-research institutes led by well known scientists in the field of air and space law, which conduct profound researches on this topic and define the modern legal regulatory trends of traffic rights of airlines. For instance, Prof. Paul Stephen Dempsey, at McGill University's Institute of Air and Space Law, Montreal (Canada)<sup>6</sup>, Brian F. Havel, Dean of International Affairs, Director, International Aviation Law Institute, Distinguished Research Professor of Law, DePaul University College of Law, Chicago (USA)<sup>7</sup>, Prof. Dr. Pablo Mendes de Leon, Director of International Institute of Air & Space Law of Leiden University in the Netherlands, President of European Air Law Association<sup>8</sup>, Prof. Dr. Stephan Hobe, Director of the Institute of Air and Space Law, University of Cologne, Germany<sup>9</sup>, Dr. Lotta Viikari, Director of Institute of Air and Space Law, University of Lapland, Finland<sup>10</sup>, Joanne Irene Gabrynowicz, Director of National Centre for Remote, Sensing, Air, and Space Law at University of Mississippi, School of Law<sup>11</sup>, etc.

It should be noted that in Turkish legal literature many lawyer-scientists (Mehmet Cemil Bilsel, Tahir Chaga, Nedim Goknil, İnci Kaner, Kubra Yetiş Shamli<sup>12</sup>, Mesut Onen, Bulent Sozer, Nazlı Can<sup>13</sup>, Sami Aksoy, Ghemal Shanlı, Meltem Deniz Guner-Ozbek, Yashar Ozturk<sup>14</sup>, Tunay Koksall<sup>15</sup>, Reshat Volkan

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<sup>3</sup> Indiana University Maurer School of Law Faculty Publications, Wenceslas Joseph Wagner  
<http://law.indiana.edu/lawlibrary/services/bibliography/WenceslasJosephWagner.shtml>

Legal status of air space at modern stage- theme of dissertation and thesis on VAK 12.00.10, candidate of juridical sciences Kruglova, Inna Alexandrovna  
<http://www.dissercat.com/content/pravovoi-status-vozdushnogo-prostranstva-na-sovremennom-etape>

<sup>4</sup> Legal status of air space at modern stage- theme of dissertation and thesis on VAK 12.00.10, candidate of juridical sciences Kruglova, Inna Alexandrovna  
<http://www.dissercat.com/content/pravovoi-status-vozdushnogo-prostranstva-na-sovremennom-etape>

International-legal problems of developing and adoption of universal convention on law of air – theme of dissertation and thesis on VAK 12.00.10, candidate of juridical sciences Samorodova, Yekaterina Alexandrovna  
<http://www.dissercat.com/content/mezhdunarodno-pravovye-problemy-razrabotki-i-prinyatiya-universalnoi-vseobshchei-konventsii->

<sup>5</sup> Dimitri Andriotis, dissertation: “Commercial rights in International Air Transport and their regulatory regime on the eve of the twenty-first century: a diabolic issue?” Institute of Air and Space Law, McGill University, Montreal, August 1993;

<sup>6</sup> McGill University's Institute of Air and Space Law, Canada; Paul Stephen Dempsey, Full Professor and Director, Institute of Air and Space Law, <https://www.mcgill.ca/law/about/profs/dempsey-paul>

<sup>7</sup> USA, Chicago DePaul University College of Law, Faculty Directory, Brian F. Havel, Dean of International Affairs, Director, International Aviation Law Institute, Distinguished Research Professor of Law  
[http://www.law.depaul.edu/faculty\\_staff/faculty\\_information.asp?id=38](http://www.law.depaul.edu/faculty_staff/faculty_information.asp?id=38)

<sup>8</sup> Leiden University in the Netherlands, International Institute of Air & Space Law, Director Prof. Dr. Pablo Mendes de Leon, <http://law.leiden.edu/organisation/publiclaw/iiasl/staff/p-mendes-de-leon.html>

<sup>9</sup> University of Cologne, Germany / Director of the Institute of Air and Space Law, Prof. Dr. Stephan Hobe, <http://ilwr.de/index.php?lang=en&pg=direktor>

<sup>10</sup> University of Lapland, Finland, Institute of Air and Space Law, Director Dr. Lotta Viikari  
<http://www.ulapland.fi/InEnglish/Units/Faculty-of-Law/Institutes/Institute-of-Air-and-Space-Law/Director>

<sup>11</sup> Official website of National Center for Remote, Sensing, Air, and Space Law at University of Mississippi, School of Law: <http://www.spacelaw.olemiss.edu/about/>

<sup>12</sup> İstanbul Üniversitesi Hukuk Fakültesi, akademik kadro, öğretim üyeleri -

Yard.Doç.Dr.Kübra Yetiş Şamlı <http://istanbuluniversitesi.hukukfakultesi.gen.tr/akademisyen.asp?ID=13>

<sup>13</sup> “Avrupa ve Türkiyede Hava Hukuku konusunda son gelişmeler” Koç Üniversitesi Hukuk Fakültesi Dr. Nüsret-Semahet Arsel Uluslararası Ticaret Hukuku Uygulama ve Araştırma Merkezi Konferans Yayınları, Dizisi – 3 (Legal) İstanbul – 2010, s. 32;

<sup>14</sup> Air Law – I, Av.Yashar Ozturk.Yayın evi belirtilmemiş, Samsun – 2010, säh. 425-431;

<sup>15</sup> Tunay Koksall, “İnternational civil aviation law” Yayın evi belirtilmemiş – Ankara 2011;

Gunel, Ayhan Sorgucu<sup>16</sup>, etc) had mentioned some issues in their research papers related to common directions of legal regulation of “freedoms”. We must particularly recall Reshat Volkan Gunel among these scientists. In dissertation work of R.V.Gunel “Transformation of Civil Aviation System in the Process of “Open Skies” Agreements from the Perspective of International Law” and in monograph “International aviation law” published later the modern status of regulatory mechanism of air traffic rights of airlines (of “freedoms of the air”), necessity of liberalization process of norms of international air law and features of its influence on economic conditions were studied in-depth.<sup>17</sup>

From well known scientists of People’s Republic of China, we can refer to names of Bin Cheng, an author of monograph “The Law of International Air Transport”<sup>18</sup>, Lyu Tsing, an author of dissertation work “Formation and development of legal regulatory system of international flights of civil aviation crafts”, etc.<sup>19</sup>

Numerous references were made to dissertations, monographs and articles of majority of above-mentioned scientists in relation of corresponding matters. There are some dissertations, which may be considered as close to subject from theoretical point of view. But such special study of the subject was not found both in national and international law literature. Presently there is almost no research paper based on study of theoretical and practical problems of “freedoms of the air” within international air law with comprehensive approach in Azerbaijani and international legal literature. The considered scientific-research work was not a subject of extensive study either in country or at international level. We have to note that this dissertation work may be considered as first research work on this theme both in our country, as well at international level. At the same time the research paper may be considered as first dissertation work by proving extensively and linked the theoretical and practical problems of “freedoms of air”, which is regulatory basis of commercial activities of airlines, combining thoughts of lawyer-scientists of the different regions of the world on this theme and identifying new approaches, destinations.

**Aims and objectives of research.** The aim of dissertation work is to identify the independence of international air law within international law based on comprehensive approach, to study modern theoretical and practical problems related to concept, classification of “freedoms of the air”, proof in international and national legal acts, to develop offers related to improvement of international and national legislation in this direction.

To achieve the given aim the following objectives were set in this research work:

- Identification of factors conditioning the international air law as independent field of the international law;
- Clarification of links of air and space law and matters of implementation of existing experience of international institutes in our country;

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<sup>16</sup> Ayhan Sorgucu, “Hava ve Uzay hukuku” (Air & Space Law) Adalet Yayın evi – Ankara 2012, səh. 15;

<sup>17</sup> R.V.Gunel “Uluslararası havacılık hukuku” (International Aviation Law) Beta - İstanbul 2010, səh. 129-137;

<sup>18</sup> Bin Cheng, The Law of International Air Transport, Sweet & Maxwell, 1977, p 17;

<sup>19</sup> International flights of civil aircrafts. Security. Law. Lyu Tsing; scientific edition by L. B. Arkhipova; responsible editor V. D. Bordunov. – Moscow.: Publishing House of NİMP: Omega-L, 2013. p. 7-8.

- Bringing clarification to matters of using of terms “air law” and “aviation law” in international legal theory;
- Commenting on theoretical issues of air services and definition of importance of “freedoms”, which have a directing role in this communication;
- Identification of development stages of historical system of “freedoms”;
- Summarization of thoughts in connection with proving of concept of “freedoms” within frameworks of international law and giving the definition to “freedoms of the air” by author;
- Summarization of positions related to number of “freedoms”;
- Giving a new legal classification to “freedoms”;
- Clarification of problems of implementation of “freedoms” of basic, subsidiary and secondary levels in modern legal regulation;
- Identification of perspectives of implementation of interstate electronic agreement model, which proves the subsidiary and secondary “freedoms” in future at international level;
- Definition of legal nature of cabotage rights as a special group of “freedoms of the air”, improvement of national legislation related to this freedoms;

**Object of the research** is legal relations formed in the field of legal regulation of commercial activities of airlines at international level.

**The subject of the research** is international legal acts, corresponding legislative acts of states in aviation field, materials on study of problems and corresponding international practice in theory of international air law and intergovernmental agreements on air services.

**Theoretical and methodological basis of the research.** The theoretical basis of study is researches of lawyer-scientists of Republic of Azerbaijan, the Republic of Turkey, the United States of America, the Russian Federation, the People's Republic of China, Canada, France, Italy, Germany, the Netherlands and other countries in the field of international air law, as well as international legal instruments on civil aviation and national legislations.

While writing the research work the general legal methods – summarization of systematic analysis, normative, scientific and practical materials, historical approach; special scientific methods – comparative research, logical approach, etc, methods were used. In addition, the conceptual provisions of public and legal theory, international law and international air law were referred in the dissertation.

**The scientific novelty of the research. Novelty of research** is defined with a fact that it is a first research work of monographic character dedicated to comprehensive study of theoretical and practical problems of “freedoms of the air” in modern period at international law of air.

The scientific **provisions to be defended** by an author and which reflect the scientific novelty of dissertation are:

1. In dissertation the existing discussion among lawyer-scientists related to matters of international transport law (or other field of law) of international air law was clarified and based on conditions defined in the theory, the definition which reflects independency of law of air from international law: “The international air

law is an independent field of international law as a collection of norms regulating interstate relations in connection with use of airspace.”

2. For the first time the attention is paid to the absence of any convention, agreement and international legal act in Azerbaijani legal literature regarding definition of border between air and cosmic space. In this connection in questionnaires sent by the UNO to states the exact answers of the corresponding states in relation of this matter. In view of above-said in the research work the ties, links and similarity between air and space law was shown and the matters of joint study of these areas in country likewise in international practice are offered. From international practice the following scientific-research enterprises may be shown: The National Centre for Remote, Sensing, Air, and Space Law at University of Mississippi, School of Law, USA, Scientific-research enterprise “National air and space law Institute” of Argentine in Buenos-Aires, McGill University's Institute of Air and Space Law, Montreal (Canada), Institute of Air and Space Law, University of Lapland, Finland, Institute of Air and Space Law of Cologne (Germany), International Institute of Air & Space Law of Leiden University in the Netherlands, Department of general transport, air transport, logistics and air and space law of Aviation and management college of Aerospace University of South Korea (Koyan city), etc. In view of availability of scientific education centre in Azerbaijan preparing national cadres in aviation and space field and providing of wide range development and in view of international experience the establishing of Air and Space Law Institute in accordance with route of high school namely within the National Aviation Academy will be purposeful. At the same time the author considers that based on numerous current experiences of world countries the establishing of postgraduate department and doctoral specialty of “air and space law” in the National Aviation Academy may yield successful results.

3. The author notes that to accept the commercial rights of “freedoms the of air” in practice within bilateral agreements as a realization mechanism will be more purposeful. The components of definition on this connection are commented and giving the following detailed definition by author is deemed to be purposeful: “Freedoms” are consent of engagement in commercial aviation activities of corresponding airlines, which defines the right of passenger, cargo and baggage transportation based on intergovernmental agreements on air services among states”.

4. The history of development of “freedoms of the air” was commented in the research work for the first time in the national legal literature in systematic, comprehensive form. The different thoughts in connection with the historical aspects of “freedoms of the air” are analysed here and the historical system of given freedoms was defined referring to current 3 development stages of international air law and based on this the matters related to offer of 4<sup>th</sup> stage were studied within general theoretical provisions. The separation of historical system of “freedoms” by author in below given 4 stages is considered more purposeful – First stage – early XX century – formation of theory of “freedoms of the air”; - Second stage - 1920-1939 years of XX century – creation and development of “freedoms of the air”; - Third stage – period after adoption of Chicago Convention

(1944); - Fourth stage – period after 90-ies of XX century (“Open Sky” Agreement of 1992).

5. Definition of number of “freedoms of the air”, which plays basic directing role in international air services and the study of matters of giving new legal classification taking as base general theoretical provisions and modern experience and grouping thoughts of lawyer-scientists according to it. The classification issues of “freedoms” in foreign legal literature were given in research work and the existence of other kinds of “freedoms” from practical point of view analyzed and it was offered to include IV group - “cabotage rights” into classification.

6. The legal nature of “freedoms of the air” (or air traffic rights) was analyzed in-depth in this research work and it was offered to use namely “freedoms of the air” term in intergovernmental agreement of Azerbaijan Republic on air services instead of term “air independency”.

7. According to legal classification defined in the dissertation work I group which combines I and II “freedoms of the air” (subsidiary “freedoms”) is defined as rights of provision of flights over territory of states located on flight route leading to third country. In connection of these rights, the thoughts of many scientists were analyzed and the idea of being deserved one of thoughts of European lawyer-scientists is brought to forefront. The integration into Europe becomes a necessity of system of globalizing world. Azerbaijan cannot be isolated from this integration as being a part of globalising world. Azerbaijan also provides subsidiary “freedoms” to other state on equivalent basis, i.e. in accordance with rules of rights on transit flights and landing for non-commercial purposes (“International Air Services Transit Agreement” or “The two freedoms Agreement”). Our state joined “International Air Services Transit Agreement” dated Dec 07, 1944” more than 15 years (Law No 745-IQ of Azerbaijan Republic dated Nov 9, 1999). According to these rights our Republic does not demand other flight rights (“freedoms of the air”) rightly and justified without asking for any additional wish of economic nature before any foreign country using own air space in practice of states having bigger territory.

8. In connection with regulation of international air services taking on view of using of basic “freedoms of the air”, including realization of active exchange, the author considers that the reference is to be given to inter airline agreement sample and principles widely used in International Air Transportation Association (IATA). In this connection referring to MITA (Multilateral Interline Traffic Agreements) practice the subsidiary “freedoms” in offered agreement are also included in basic “freedoms” group and the offer of acceptance of preparation of electronic agreement on air services combing in self the corresponding standard conditions is to be right. In order to avoid delay and long term discussions in connection with implementation of air transportations the confirmation of initial electronic agreement in mutual form may ensure the efficiency in maximum level. From this point of view we offer an electronic model reflecting the aviation content, undisputed and standard conditions that may play a role of direction. In next stage the mutual discussion of other priority issues noted by us will be implemented and the basic agreement may be concluded. The author considers that an electronic agreement model may be adopted by recommending decision for

states within ICAO. The including of priority issues, which will be reflected in basic agreement, in initial electronic agreement in connection with realization of air transportation may not be considered as purposeful. At the same time basing on the given ideas the author offers to conclude initial electronic agreement without having long term discussions with delegation of Serbia, Jamaica, South African Republic, Canada, Yemen and Bangladesh, with whom the State Civil Aviation Administration of the Republic of Azerbaijan carries out the negotiations on air services, and to implement the air transportation.

9. In the research work for the first time the second level “freedoms of the air“ within new legal classification of “freedoms” were commented widely both from theoretical and practical view (at national and international levels) and the place and role of these freedoms in international air services was provided. In accordance with the classification given hereunder the author gives the clear picture of secondary level “freedoms”, which included in group III and combining V, VI, VII “freedoms of the air”, i.e. to implement the air transportation from partner states to third states under the contract.

10. It is known that in the special provision mentioned in the Chicago Convention on International Civil Aviation signed in Dec 7, 1944 the separate place was given to regulation of cabotage air transportation. And based on it the majority of world states, which ratified the Convention express their attitude in corresponding legislative act whether to allow or disallow to foreign airlines the implementation of cabotage air transportation in concrete form. The author thinks that based on this necessity the proper attitude is to be expressed on these matters in Law of the Republic of Azerbaijan “On Aviation” in accordance with civil aviation policy.

11. Three options may be taken as basis in matter of expressing of state of own attitude to cabotage air transportation: According to the First option the ban of cabotage air transportation by Azerbaijan likewise many states (USA, Russia, Turkey, Jordan, Saudi Arabia, People's Republic of China etc) may be reflected in corresponding legislative act (Law of the Republic of Azerbaijan “On Aviation”). In Second option likewise in many states (EU, United Kingdom (UK), Belarus, Australia, Singapore, Chile, New Zealand, etc.) certain provision may be included in corresponding act related to allowance of inter-state air transportation. We deem that the Third option is to be preferred more in connection with commented issue and following is to be included in Law of the Republic of Azerbaijan “On Aviation”: “Azerbaijani state may conclude agreement with any state on mutual basis regarding cabotage air services taking into account own economic and political interests”. From viewpoint of progressing of Republic of Turkey in membership to the EU and future close cooperation of Azerbaijan with Turkey (for example, introduction of “Open Sky” policy, which available in Western Europe, in future Turkic union, etc.) the corresponding amendments may be made in Articles 6 and 31 of “Civil Aviation Law of Turkey” related to cabotage rights and in such case the offered Supplement to the of Law of the Republic of Azerbaijan “On Aviation” may be taken as a basis.

**The theoretical and practical importance of results of study** is to use considerations and offers of author in education process in National Aviation

Academy and other education centres, as well as in scientific–research activities. The scientific results of dissertation may be used widely in improvement of matters of legal regulation of commercial activities of airlines, in study of problems related to “freedoms of the air“, in identification of new approaches in international air law, in regulation of interstate air services agreements, in offering supplements to national legislative acts in the field of civil aviation and other normative-legal acts, in particular in the process of regulating activities of the State Civil Aviation Administration of the Republic of Azerbaijan.

Therewith, the results of dissertation work may be used in preparation of textbooks, books and monographs, which combine in self matters like “International law”, “International air law”, “International transport law”, “Air and space law”, “Air law of Azerbaijan Republic” etc and at scientific-practical studies to be realised in this field.

**Approbation of results of the thesis.** The dissertation was realized and discussed in Department of “Jurisprudence” of the National Aviation Academy.

The main provisions of the dissertation were commented in materials of “Azerbaijan and Europe: Problems and perspectives of mutual relations”, the VII Republican Scientific–practical Conference of Students dedicated to 10<sup>th</sup> anniversary of Baku Slavic University, materials of International Scientific–practical Conference dedicated to December 10 – International Human Rights Day named “Human rights and national legal systems in period of globalization” held by Baku State University, materials of XVII and XVIII Republican scientific conferences of doctoral candidates and young researchers arranged by Ministry of Education of Azerbaijan Republic, materials of International symposium on theme “Problems in International civil and military aviation” arranged in Ozyegin University of Turkey (Istanbul) <sup>20</sup>, materials of “I international scientific conference of young researchers” dedicated to 90<sup>th</sup> anniversary of national leader of Azerbaijan Heydar Aliyev, arranged in Qafqaz University <sup>21</sup>, materials of International scientific conference on “Current theoretical issues of modern international law”, held in Moscow State Institute of International Relations in connection with 110<sup>th</sup> anniversary of Fedor Ivanovich Kozhevnikov, editor in chief of “Soviet state and law”, judge of UNO international court, member of legal commission of UNO, and 65<sup>th</sup> anniversary of Chair of International Law .

In addition basic context of dissertation, matters studied in separate chapters were reflected in papers of candidate for degree published in various collections.

**The structure of the research** is conditioned with aims, objectives and methodology of research. The work consists of an introduction, three Chapters, combining seven sub-chapters, Conclusion and list of references. The total volume of the dissertation is 175 pages.

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<sup>20</sup> İstanbul Özyeğin Üniversitesi resmi internet sitesi. “Özyeğin Üniversitesi Hukuk Fakültesi Askeri ve Sivil Havacılık Açısından Uluslararası Hukuk Sorunları” sempozyum.  
<http://ozyegin.edu.tr/Events/2012-Events/Askeri-ve-Sivil-Havacilik>

<sup>21</sup> Qafqaz University, I International Scientific Conference of Young Researchers devoted to the 90th anniversary of Azerbaijani national leader Heydar Aliyev April 26-27, 2013, <http://www.qu.edu.az/en/pages/Abstracts-accepted-by-the-Scientific-Staff-of-the-Conference-Section-I-901832.html>

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The **Introduction** grounds the actuality of selected topic, its level of developing from scientific viewpoint; the aims and objectives of research are defined, the main provisions to be defended are formed and the practical importance of work is clarified.

In Chapter I of dissertation named “**Theoretical and legal basis of “Freedoms of the Air” in international air law**” the following paragraphs are studied: “International air law as a field of international law”, “Concept, theoretical and legal bases of “freedoms of the air” in international air law“.

**In the first paragraph “International air law as a field of international law”** the special discussion among lawyer-scientists related to independency of international air law within international law or attribution to international transport law (or other law field) was clarified and based on conditions of theory, where the most detailed definition was given to international air law as independent field of international law. At the same time reasons of not naming the international air law as “aviation law” and relationship, links of air and space law as well as the matters of study of these fields within scientific-research institute in joint form in our country like in international practice were covered here.

Even ancient Roman law considered the air as a natural environment being a necessary tool for life and common wealth of everybody (*res communis*). But after appearing of possibility to use air space for commercial and military purposes the states included it as integral part of their territories unanimously declared their rights of sovereignty on their air space. This provision was reflected for the first time in Paris Convention of 1919, the first multisided agreement.<sup>22</sup>

The author expressed his attitude to views of lawyer-scientists of Azerbaijan, Turkey, Russia, Europe, which were listed in the paragraph and tried to summarize

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<sup>22</sup> Lukashuk I. I. International law: tutorial: publishing house. M.: Wolters Kluwer, 2008, c. 162.

these considerations. Considering the views of some Russian lawyer-scientists more purposeful the author notes that they rightly considered the transport law as comprehensive field of legislation, which combine norms of some legal fields and regulating various types of public relations. In this connection the applicant note that as to identify the subject of transport law and legal regulatory method became impossible, these fields cannot be attributed to independent law fields. And from this point of view the author comes to conclusion that air law cannot be considered as sub-field or institute of transport law. He also divides the thoughts of lawyer-scientists schematically in 4 groups. In first option the international air law is considered as institute of international transport law within a structure of international economic law. In second option the international air law is considered as subfield of international transport law. And in third option the international air law is considered as an independent field of international law. Finally in fourth option the international air law is considered as legal institute within structure of international law. The author summarize his thoughts in this connection and notes that from point of view of international air law the common feature that unites all three options given in the scheme is that the field of law anyway was derived from international law and directly linked with it.

The applicant considers that the scope and specificity of relations regulated by international air law led to independency of this field of law within international law. The international air law is not related to international transport law for main elements, important legal principles, specificity of relations regulated by it, theoretical bases, historical stage of development (numerous conventions adopted in XX century in this field, the wide range activities realized by the International Civil Aviation Organization (ICAO) and etc features and for these reasons is not considered as independent field of international air law.

Finally, the author comes to conclusion that among options provided in scheme made by him, the third option meets more precisely the requirements of modern legal theory.

In majority of definitions given by lawyer-scientists to international air law the matter related to using of air space comes to forefront. Namely these relations reveal the main direction of international air law. And from this point of view applicant considers that the feature noted in short and complete definition to be given to international air law should be marked in particular. At the same time it should be noted certainly in this definition that from viewpoint of international importance of these relations it should be noted that they are interstate relations. Besides it the independency of international air law within international law should be emphasized. The author deems purposeful to have the following definition of this law field:

***The international air law is an independent field of international law as a collection of norms regulating the interstate relations in connection of use of air space.***

In view of availability of scientific education centre in Azerbaijan preparing national cadres in aviation and space field and providing of wide range development and in view of international experience the establishing of Air and Space Law Institute in accordance with route of high school namely within the

National Aviation Academy will be purposeful. At the same time the author considers that based on numerous current experiences of world countries the establishing of postgraduate department and doctoral specialty of “air and space law” in the National Aviation Academy may yield successful results.

Today there are numerous air and space law institutes in the world which began to function since 40-50-es of XX century.

The international air law is taught in the National Aviation Academy on jurisprudence specialty just in 1 semester. We think that based on current experience of above mentioned foreign countries the establishment of postgraduate department and doctoral specialty of “air and space law” in the National Aviation Academy may yield successful results. Particularly realization of education activity for the National Aviation Academy with specific education orientation may be considered more purposeful.

In view of providing of wide range development of scientific education centre in Azerbaijan preparing national cadres in aviation and space field, the establishing of Air and Space Law Institute in accordance with route of high school namely within the National Aviation Academy will be purposeful.

While looking at current organizational structure of the National Aviation Academy, we find that the Scientific-research Institute of Transport and Airspace problems functions within the academy. This institute unites consisted of two sections: Constructor Bureau and Experimental-test production area and additionally 5 sections: Aviation electronic section; The section of handling of new equipment and technologies; Aviation microelectronic conductors section; Airspace informatics section; Section of scientific–technical information and introduction of new equipment. It would be better if the Air and Space law Institute to be established in future will not be included in structure of the Scientific-research Institute of Transport and Airspace problems, and being as independent institute to be subordinated to the National Aviation Academy. Establishment of institute in such way and its activity is in full conformity to experience of Air and Space law institutes. The establishment of such Air and Space law institutes in Azerbaijan will play a significant role in formation of a unified centre for Caucasus region, Balkans, Republic of Turkey, CIS countries and in general Asian countries in the given field for creation of new development models and trends and serve in attraction of numerous youths. In addition the institute to be established will unite the activity directions of international institutes currently available in this field and may play a significant role in submission to legislative body of Azerbaijan Republic new proposals and projects coordinated with administration of the National Aviation Academy in the field of air and space law.

The next issue to be studied in this paragraph is identification of more exact term meeting the general theoretical requirements between “aviation law” and “air law”. The author analyses the “aviation law” as fake substitution of term of “air law”, which has no legal base. From other side the author notes that if we use a term “aviation law” in such case a great scope of regulated relations will be left aside. Obviously, when we say legal regime of air space and relations in connection with using of this air space then the inevitability to prefer community occurs. For comparison, from this viewpoint it is necessary to defend the legal

exactness and distinctness of “air law”, which is more common and grounded one. In this sense the International Civil Aviation Organization (ICAO), which always contributes in enriching and improving of air law terminology and gives important recommendations, shows special example. Summarizing all above-said both from logical viewpoint and in view of theory and history of air law theory, as well as taking as a base the term defined by the International Civil Aviation Organization to use term of “air law” is acceptable and purposeful.

**In the paragraph named “Concept, theoretical and legal basis of “freedoms of the air” in international air law”** the different thoughts related to “freedoms of the air” in international air law are analyzed, more comprehensive concept was given, definition of number of “freedoms of the air” and its grouping accordingly was provided and new classification issues were studied by taking as a base thoughts of lawyer-scientists, general theoretical provisions and modern practice.

The applicant stresses that “freedoms” and commercial rights are accepted as legal terms with close meaning and they regulate issues being closely linked in corresponding area. Referring to legal vocabulary and concept given by lawyer-scientist one comes to conclusion that the commercial rights are wider concepts. Many lawyer-scientists accept the commercial rights and “freedoms of the air” as synonyms. We think that “freedoms” is to be considered more as legal regulation of commercial activity connected to international air services. From all concepts given in the dissertation it becomes clear that the essence of “freedoms of the air” directly reflect the commercial character. From this reason to adapt the “freedoms of air” as a mechanism of realization of commercial rights in practice within bilateral agreement will be more purposeful. Commenting the components of definition the author deems it purposeful to give definition like below in details: “Freedoms of the air” is consent of engagement in commercial aviation activities of corresponding airlines, which defines the right of passenger, cargo and baggage transportation based on intergovernmental agreements on air services among states”.

The most spread form of classification of “freedoms of air” is their division into separate types. Every lawyer-scientist treats the matter of existence of “freedoms of air” in the air law in specific form. Y.D.Ilin notes existence of 4, while A.Kh.Sayidov, V.I.Baronov, V.A.Batyr, V.I.Lipunov, N.A.Ushakov, Wolfanq G. Vitsum etc 5, P.N.Bryukov 6, Y.N.Maleyev, G.P.Zhukov, G.M.Velyaminov, I.V.Getman-Pavlova, G.V.Ignatenko, V.N.Grechukha, I.V.Timoshenko, A.N.Simonov, F.Alakbarova, Dmitri Andriotis, Rustam Mammadov, L.Huseynov, E.Aliyev, G.Bashirova etc - 7, A.P.Movchan, K.A.Bekyashev, I.I.Lukashuk, V.I.Kuznetsov, I.N.Glebov, K.K.Hasanova, D.D.Shalyaqina, A.N.Vylegzhanin, Lala Kaplan, Musa Alioglu, Onur Gunturkun - 8, P.M.Leon, P.S.Dempsey, V.D.Bordunov, R.V.Gunel, Nazlı Can, E.M.Najafov, Kh.A.Akhundov, S.I.Aliyev 9 “freedoms”.

According to thought of an author the scientists, noting availability of 7 or 8 “freedoms of the air”, take as base the thought of special competence of state for 8<sup>th</sup> and 9<sup>th</sup> freedoms of air (that is cabotage rights) and limiting with internal limits of state. Only we should note in absolute form that 8<sup>th</sup> and 9<sup>th</sup> “freedoms of the air”

likewise other freedoms are defined by agreements on intergovernmental air services and combines all basic conditions attributable to air links. Basing on above-given concept of “freedoms of the air” we must stress that the right of implementation of passenger, baggage and cargo transportation, which is stipulated in agreements on air services includes basic essence of “freedoms”. If to explain within the given concept corresponding airline is engaged with commercial activities by implementation the passenger, baggage and cargo transportation. As the 8<sup>th</sup> and 9<sup>th</sup> “freedoms” realized today in practice meets all basic conditions provided in the concept of this term, we deem that presence of same freedoms in theory as well is purposeful.

As it was noted in dissertation the majority of lawyer-scientists divide “freedoms of air” in types namely showing the exact number. In these classifications each scientist reflect own post in specific form. While studying the types of “freedoms of the air” in separate one can come to such conclusion that depending on content these freedoms may be grouped. In thoughts of certain scientists mentioned above we can find it even partly. But it is noted that these posts may be simply considered as an attempt to group these “freedoms of the air”. At the same time ICAO’s official document defines the directing classification related to “freedoms of the air” within the generally accepted international legal acts.

Russian lawyer-scientist A.A.Batalov groups the “freedoms of the air” in specific to him manner: Transit flying rights (1<sup>st</sup> and 2<sup>nd</sup> “freedoms of air”; based on contract on air services air transportation rights among partner states (3<sup>rd</sup> and 4<sup>th</sup> “freedoms”); based on contract on air services air transportation rights among partner states and third states (5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> “freedoms”); Moreover, A.A.Batalov also notes separately other rights for entry into market and does not include them in given grouping. From the classification defined by the lawyer-scientist it becomes clear that he names 7<sup>th</sup> “freedoms” in that grouping.

Prof. Dr. Pablo Mendes de Leon, Director of International Institute of Air & Space Law of Leiden University in the Netherlands divides rights exchanged by international air services contracts in two: «hard rights» and «soft rights». The lawyer-scientist widely considered in his paper the different features that he defined among the marked rights. Professor P.M.Leon comments “freedoms of the air” (traffic rights) within «hard rights» referring to this division. From this point of view there is comprehensive classification model in form grouped according to content and essence of “freedoms of the air” included in textbook of Russian lawyer-scientist S.V.Aseyev “Transport Law”. The applicant thinks that this model given in Russian legal literature is more purposeful and brought in conformity with essence of realization of these freedoms in practice. But cabotage rights, which are widely implemented in EU, Australia, New Zealand, Chile, UAE and other regions at present, were not reflected. Finally the applicant comes to conclusion that the cabotage rights, which are implemented in practice (8<sup>th</sup> and 9<sup>th</sup> freedoms of the air”), should be included in legal classification of freedoms. It is very important from point of view of eliminating of controversy between theory and practice. The author thinks that the grouping of 9 “freedoms” in 4 groups is a legal classification model meeting completely the requirements of general legal theory.

In addition to those noted in the paragraph different thoughts connected to historical aspects of “freedoms of the air” in international air law were analysed and the historical system of given freedoms was defined referring to 2 development stages of international air law and based on it the issues of offering of 4<sup>th</sup> stage within general theoretical provisions were studied.

In the Chapter II named **“Legal Classification of “Freedoms of the air” according to defined classification in paragraph I named “Subsidiary “freedoms” (first and second «freedoms»)”** the commercial rights related to provision of flying over territory of state, located on the route going to third country are commented and specific attitude is expressed. In the next paragraph named **“Basic “freedoms” (third and fourth “freedoms”)**” the commercial rights related to provision of air transportations based on contract between partner states and the purposefulness of classification available in theory was stressed on practical examples. In third Paragraph named **“Secondary “freedoms” (fifth, sixth and seventh “freedoms”)**” the commercial rights related to provision of air transportation from partner countries to third country, based on agreement, are commented in general from viewpoint of international and national practice. Few offers were given by showing certain new scientific approaches on each group of above-mentioned freedoms. In Paragraph II named **“Basic “freedoms” (third and fourth “freedoms”)**”, it is thought that in view of regulation of international air services, which includes using of basic “freedoms of the air”, as well as realization of active exchange the reference may be given on inter airlines agreement samples and principles, widely used in direction of International Air Transport Association (IATA). Here the author explains the electronic agreement model in concrete form.

In Chapter III named **“Legal nature of cabotage rights (eighth and ninth “freedoms”) and issues of its implementation”**, the concept, essence, which is included by author in classification of “freedoms of air”, the role of cabotage freedoms in the legal regulation of modern air transportations (particularly within “Open sky” policy) are analysed. The prove of cabotage (9<sup>th</sup> “freedom of the air”) in legislative acts of various countries and showing of comparative features, definition of perspectives of improvement of the national legislation in this connection and theoretical-practical issues related to legal regulation were commented here and some important proposals were given.

From dissertation work it becomes clear that in air codes of countries like Moldova, Kazakhstan do not express attitude to flights within territorial boundaries of state, which may be realized by foreign airlines and only general provisions are defined in this connection. The author thinks that states like the USA, Turkey, Jordan, Australia, People's Republic of China, Chile, Russia, United Kingdom (UK), Singapore, Belarus, Ukraine, Uzbekistan, Kyrgyzstan, Tajikistan and etc have rightly expressed their attitude to cabotage air transportations in corresponding legislative acts. (For example, From Jordanian Civil Aviation Law no. (41) Of 2007 article 42 “Commercial air transportations passengers or freight between any two points inside the Kingdom may not be made except by persons or organizations of Jordanian citizenship.....” From Civil Aviation Law. / Saudi Arabia Royal Decree No. M/44, 18 Rajab 1426H / 23 August 2005 Article (18): “Prohibition of internal air carriage” Subject to the provisions of the Foreign

Investment Law, no foreign operator may carry passengers, cargo or mail for a fee or consideration between two points within the territory of the Kingdom. Nonetheless, the Authority may authorize such carriage to cater for exceptional or special circumstances or to finish an incoming international flight. and others)

In the Law of the Republic of Azerbaijan «On aviation» (this law was adopted in June 24, 2005 and came into force in Sep 1, 2005), according to Article 38.1 “Scheduled Flights” : “ 38.1. The relevant government authority shall issue licenses to the holders of operator’s certificates to perform international and domestic scheduled flights.”.<sup>23</sup> The given Article has general directing nature in connection with regular air services in the national aviation law expresses the possibility of realization of domestic air services. From here one can understand that by giving to any air carrier (national or foreign) exploitation certificate it can implement domestic air services (that is cabotage right) within boundaries of Republic of Azerbaijan. But we deem that this article should namely exactly express possibility of implementation of air transportation by foreign airline within boundaries of our country. Here the matter of whether or not to allow foreign airlines to implement cabotage air transportations is not clear. But absence of this matter in the Law of the Republic of Azerbaijan “On aviation” allows saying that our state does not prohibit the realisation of cabotage air transportation in certain sense. We deem that in Article 38.1 of our national aviation law as a general aviation demand the standard form included in corresponding legislative acts of some Commonwealth of Independent States (CIS) countries. It should be noted that from practical viewpoint the domestic air transportations in the territory of Republic of Azerbaijan were implemented and still have been implementing by national air carrier “AZAL” CJSC. “AZAL” CJSC could realize cabotage air transportations inside of foreign state, between Tiflis and Kutaisi cities of Georgia. This cabotage right was possible due to Protocol dated May 20, 2009 on amendments to the Agreement dated Feb 3, 1993 on air services between Government of Republic of Azerbaijan and Government of Republic of Georgia. The fourth paragraph of remarks attached to the protocol of Agreement reads: “The granting of rights to aviation enterprise of one agreeing party to take onboard passengers, cargo or post for transportation between points in the territory of other agreeing party against payment or on hire is a subject of separation agreement of aviation bodies of each Agreeing Party”. Under the given agreement the mutual cabotage rights are granted to Government of Georgian Republic in the territory of Republic of Azerbaijan. But Government of Georgia still did not use this right. From the legislative acts of foreign countries that we considered in this field the attitude of the state to cabotage air transportation should be reflected within legislative framework. In view of above said we deem that the state’s attitude to cabotage right is to be certainly provided in the national aviation law. Its major reason was a Decision No 204 of Milli Mejlis (Parliament) of Republic of Azerbaijan dated July 14, 1992 on joining The Chicago Convention on

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<sup>23</sup> «Law of the Republic of Azerbaijan «On aviation»

International Civil Aviation dated Dec 7, 1944.<sup>24</sup> While there are special provisions in Convention in connection to this matter, the Law of the Republic of Azerbaijan «On aviation» should also have exact expression related to cabotage law according to it. When saying it, we assume the matter of whether state allows these transportation of not. In this connection various alternatives may be taken as ground. As a first option Azerbaijan may prohibit cabotage air transportation like many states. As a second option such kind of interstate transportations may be allowed. At present moment the first option is not possible. Because in agreement signed by Azerbaijan such permission is given to Government of Georgia. Finally, the third option covers the meaning that is acceptable for us. The acceptable third option is as follows: “Azerbaijani state taking into account its economic and political interests may sign cabotage air services agreement on mutual basis with any state.” We think that this new norm is to be included in our national aviation law within framework of “cabotage”. In the article, offered by us, the economic and political interests are emphasised in particular. The reason of it is the economic interests of states are taken as base in commercial activities of airlines. Moreover the political interests are very important for state. The offering of the article in such way says about approaching of Azerbaijan to this matter with prevailing position. The absence of imperative character of the article has a special priority. That is, Azerbaijan may sign such agreement only if it meets the interests and benefits of country, or refuse it. As we see here the mutuality is especially brought forefront. In mutuality Azerbaijan also gets the cabotage right within corresponding state with certain agreement taking as a base the commercial interests, if it suits him. As a result of having such article Azerbaijan does not lose in any case from commercial point of view. We have to note that in current intrastate acts of majority of states, which we have get at result of studies, in the field of aviation no article is found in the offered form. The offered article completely covers the requirements of theory of international air law. A given supplement to the law of Republic of Azerbaijan “On aviation” will eliminate the big gap in this filed.

As we have noted above Republic of Turkey banned cabotage air transportation of foreign airlines in its territory. But if Turkey becomes full member of the European Union, the amendments in Articles 6 and 31 in “Turkish Aviation law” will be done accordingly in order to provide liberality of services. (From “Turkish Civil Aviation Act” article 31 – “Transportation of passengers, mail and freight by air for commercial purposes between two points within the boundaries of the Republic of Turkey can be effected with Turkish registered aircraft.”) We think that from now making an amendment in “Turkish Civil Aviation Act” in a form which we offer, taking as a base the commercial interests of Republic of Turkey will be purposeful. Consequently in any case the amendment to this article will be made. Basing on above commented reasons we consider that inclusion of article in Law of the Republic of Azerbaijan “On aviation” as offered in the national aviation law of Turkey would be better: “Republic of Turkey taking into account its economic and political interests may sign cabotage air services agreement on mutual basis with any state.” Making such

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<sup>24</sup> International conventions and contracts joined by Republic of Azerbaijan  
<http://azerbaycanciolli.org/az/page203.html>

amendment both in national aviation laws of Azerbaijan and Turkey as well has a great practical importance. Making an amendment in corresponding legislative acts of both states in an offered form necessitates in future a realization of bilateral agreement on interstate cabotage air transportation. It is known that implementation of cabotage air transportation is mostly wide spread among neighbouring states (as in legal literature “partner states”) in mutual form. Amending in future the article in “Turkish Civil Aviation Act” in a form offered by us for signing of mutual agreement with brother country Republic of Turkey on cabotage air transportations may be considered as purposeful. At result it will expand further current close cooperation of Azerbaijan with Turkey in the field of air services.

The “Open sky” policy, which is widely spread at modern time, allows the states to use all 9 “freedoms of the air” among them. Presently the EU states, which consider the cabotage air transportation as a competence belonging to state began to form the “Unified European Sky” and since 1993 EU states got the unlimited access to flights among member states of the Union. And after 1997 the cabotage right is formed among airports of the European Union states. The agreements on “Open Sky” almost may cover the unlimited exchange of exploitation rights. Presently the European Union Commission plans to expand the range of “Open Sky” policy.<sup>25</sup> In addition to it, an implementation of “Open Sky” regime like in Western Europe, as a result of amendments to Azerbaijan and Turkish legislations, as we already noted above, and further with participation of other Turkic states will be very estimable. Also making corresponding amendments to relevant legislative acts of states and realization of “Open sky” or similar conception within states of the CIS or GUAM (The GUAM Organization for Democracy and Economic Development is a regional organization of four post-Soviet states: Georgia, Ukraine, Azerbaijan, and Moldova) by political will of these states may be considered as successful for future.

In the **Conclusion** of dissertation work the research is finalised and offers and recommendations, having theoretical and practical importance in this field are proposed.

**The main results of thesis were published in following papers of authors:**

1. Papers of the National Aviation Academy ““Freedoms of the air” in international air transportation”, № 2, Baku - 2008, p. 148-158
2. «The European experience in implementation of air traffic rights and Azerbaijan» Azerbaijan and Europe: Problems and perspectives of mutual relations”, Materials of VII Republican Students’ Scientific-Practical conference dedicated to 10th anniversary of Baku Slavic University, Baku – 2009, p. 62-63.

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<sup>25</sup> E.M.Najafov, Z.Z.Khalilov. “Freedoms of the air” and history of their development” NAA Scientific works, 2010;

3. "Perspectives of implementation of "freedoms of the air" in Azerbaijan Republic", Papers of the National Aviation Academy, № 2 (1), Baku - 2009, p. 212-217
4. "Subsidiary "freedoms" in international air transportation", "Transport law" scientific-theoretical, practical journal, № 2, Baku – 2010, p. 174-182.
5. "Freedoms of the air" and history of their development", Papers of the National Aviation Academy, № 2, Baku – 2010, p. 72-80
6. "Theoretical and practical grounds of cabotage rights in the international air law" , "Transport law" scientific-theoretical, practical journal, № 2, Baku - 2011, p. 101-114
7. "International air law as field of international law", "Право и суспільство", № 3, 2012, Kiev, Ukraine, p. 59-64
8. "Legal classification of "freedoms of the air" in the international air law", "Transport law" scientific-theoretical, practical journal, № 1, Baku – 2013, p. 17-27.
9. "Independence of international air law within international law", Scientific Collections of NAA, Vol. 15 № 2, Baku - 2013, p. 76-81
10. "International air law as field of international law", Materials of XVII Republican scientific conference of doctoral candidates and young researchers of Ministry of Education of AR, Vol. II, Baku – 2013, p. 145-146.
11. "Historical aspects of "freedoms of the air" in international air law", "Transport law" scientific-theoretical, practical journal, № 3, Baku – 2013, p. 58-62.
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13. "Historical aspects of "freedoms of the air" in the international law of the air". 1st international scientific conference of young researchers dedicated to 90th anniversary of National leader of Azerbaijan Heydar Aliyev, Gafgaz University, Baku – Apr 25-26, 2013, p. 235-236.
14. "The matters of legal regulation of cabotage rights in interstate acts: comparative analysis", The Moscow Journal of International Law (MJIL) Scientific–theoretical and informational – practical journal № 3 (91) 2013 July-Sep, Moscow, Russia, p. 104-117.
15. "Legal aspects of cabotage air transportation", Materials of XVII Republican scientific conference of doctoral candidates and young researchers of Ministry of Education of AR, Vol. II, Baku – 2013, p. 281-282.