

NATIONAL TRANSPORT POLICY IN CONTEXT IMPLEMENTATION OF THE ASSOCIATION AGREEMENT

Matveeva Anastasia Vladimirovna

Ph.D., senior researcher

Associate Professor of Law, National Aerospace University

«Kharkiv Aviation Institute»

Kharkiv, Ukraine

Associate Professor of Legal Regulation of Economics

Simon Kuznets Kharkiv National University of Economics

Kharkiv, Ukraine

Abstract: The article is devoted to the problem of determining the main directions of transport policy of the state. The author provides a definition of national transport policy, its main goals and objectives.

Keywords: transport, international transportation, transport law, transport policy, Association Agreement.

The Ukrainian state has a unique and quite advantageous geographical location at the intersection of traffic flows from Europe to Asia. It is located in the center of Europe and has an extensive system of sea and river ports, a developed system of railways and highways, a pipeline system and more. There are all objective factors for the efficient operation of the national transport system, including through transit traffic.

However, according to statistics, the transit potential of the state is used only by a quarter, the quality of transport services is quite low, and most importantly - there are significant threats to both transport safety (given the unstable situation in the east and Crimea) and transport safety. as a whole, as well as threats to the normal functioning of other elements of the transport system.

Moreover, such a critical situation existed before the signing of the Association Agreement with the EU and in fact remains unchanged to this day. And this is

strange, because the interest and demand for the capacity of the Ukrainian transport network on the part of Western European partners, of course, is there. This interest is especially evident in the transportation of goods, as the shortest (and most profitable from an economic point of view) route for the transportation of goods from Europe to Asia, other eastern countries passes through the territory of Ukraine.

The idea of creating international trade routes is not new. As V.M. Filipov points out, the very emergence and gradual strengthening of exchange relations and caused the need for the development of transport links [1, p. 5]. Thus, in different countries of the world there were large trade caravans – «Amber Way» (Baltic region), «Tin Way» (England – Mediterranean countries), «Scythian Golden Way» (Central Asia – Black Sea steppe), and so on.

Kyivan Rus' was the largest state in Europe. The Dnieper and its tributaries became the path for the Slavs, which allowed them to join the international trading system that developed in Southeast Europe, connecting them with the Black Sea and Caspian markets.

Favorable location of Kyivan Rus' led to rapid turnover and brought large profits to merchants. It should be emphasized that the formation and unification of such a state was a matter not only of successful military campaigns, but also of skillful diplomacy. It was at the time of Kyivan Rus' that the first diplomatic service appeared, which acted in accordance with the norms of international law, at the same time the embryos of customs appeared in Ukraine, the first international treaties were signed, for example, agreements with Byzantium 907 and 911 [2, p. 5]. The first means of state regulation of the process of transportation of goods emerged during the times of Kyivan Rus' – so, Kyiv feudal lords by their decrees obliged certain persons (mostly merchants and burghers) to build and maintain roads, in addition, for non-compliance was punishable by fine [3, p. 147].

Even as part of the USSR, Ukraine has participated in many agreements designed to promote the regulation of international economic relations and their development, and, in particular, in agreements governing the organization of international communications and transport links. For example, the USSR is a party to the 1965

Convention on transit trade of inland states [4], the 1968 Conventions on Road Traffic and on Road Signs and Signals [5], since 1959 the USSR has been a party to the 1929 Convention for the Unification of Certain Rules Relating to International Carriage by Air [6].

The current stage of development of international transport corridors on the territory of Ukraine dates back to the 80s of the twentieth century, when there was a clear trend of increasing trade between Western Europe and the Asia-Pacific countries. Contributed to the development of ITC and the emergence after the Second World War of multinational companies, for which the priority was the task of transporting goods from one country to another, the refutation of customs formalities and more.

One of the prerequisites for the formation of new transport arteries of continental importance is the Trans-European Transport Network within the European Union, which is developing in accordance with the Treaty establishing the EU, the Treaty establishing a Constitution for Europe [7, p. 417]. The creation of a single European market necessitated Europe's transport integration. At present, various countries are putting forward initiatives to create a single economic space for the free movement of goods, capital and services. Based on this, the idea of developing and implementing a common transport policy for all countries has become widespread.

These ideas were embodied in the concept of trans-European transport axes (Declaration of the EEC Committee of Transport Ministers, 1983), then intermodal transport bridges (I Pan-European Conference on Transport, Prague, 1991), and, finally, international transport corridors. Conference on Transport, Crete, 1994).

The Cretan Conference identified priority transport corridors in the west-east and north-south directions of Europe. The network of pan-European transport corridors includes 10 routes. Four of the ten Cretan international transport corridors pass through the territory of Ukraine.

The Resolution of the Cabinet of Ministers of Ukraine of December 16, 1996 «On Priority Measures for the Establishment of a National Network of International Transport Corridors» defines the list of transport corridors that are included as an integral part of international transport corridors.

The legal basis for the development and operation of ITC in Ukraine was initiated in 1998 with the adoption of the Program for the establishment and operation of a national network of international transport corridors [8]. But in 1997 the Concept of creation and functioning of the national network of international transport corridors was adopted [9]. The concept defines the basic principles of creation and functioning of the national network of transport corridors for the period up to 2015 and its inclusion in the international transport system. The program provides a set of priority measures aimed at the construction of the ITC for the period up to 2005 and the development of road and rail transport. On April 12, 2006, the Resolution of the Cabinet of Ministers approved the Program for the Development of the National Network of Transport Corridors in Ukraine for 2006-2010 [10]. Both the Concept and the Program envisage first the construction of the ITC in accordance with the existing road system, and then the subsequent construction of new roads. However, unfortunately, the implementation of the tasks regulated in these documents is extremely low.

It should be emphasized that the development of transportation depends entirely on the policy of the state in this direction, ie on the national transport policy. Therefore, as R. P. Boychuk emphasizes, the main task is to clearly define and systematize the legal regulators in the field of transport, in particular, to determine the mechanism of their regulatory action, the competence of authorized state bodies for their application. This will provide an opportunity to more accurately predict the outcome of such regulatory influence to reconcile different interests in the management process and overcome conflicts that may arise [11, p. 67].

At present, it is important to define the concept of «transport policy», its elements and main directions. The encyclopedic definition of transport policy is as follows: «transport policy is the activity of the state and relevant industry institutions, aimed at providing the economy and the population with transportation» [12, p. 679]. However, D. Preiger points out that such a definition is incomplete (and we agree with it), «because it applies only to domestic traffic, ie does not take into account the possibility and feasibility of realizing the transit potential of Ukraine» [13, p. 64].

The scientist interprets transport policy as an activity of the authorities aimed at fully meeting the needs of the population, industries and enterprises in transportation, the realization of its own transit potential at economically reasonable tariffs in compliance with environmental requirements and international obligations of the state in the field of transport communications [13, c. 64]. Admittedly, this vision of transport policy is more in line with today's realities, but is somewhat inaccurate from a legal point of view. Thus, transport policy is the activity not only of state authorities, but also of other subjects of law, in particular local self-government bodies, business entities that indirectly influence policy, and so on.

M. Pogrebytsky defines state transport policy as a comprehensive program of action in various areas of the transport sector, including its technical and technological modernization, adaptation to market conditions, institutional transformations in the field of ownership, economic relations, governance, integration into European and world transport systems, personnel and social policy, economic security of the state [14, p. 361]. This definition, in our opinion, is quite thorough, complete, but we believe that transport policy is not just a «program of action». Politics presupposes the existence of both object and subject composition, and therefore this definition lacks «subjectivization».

O.V. Filipenko understands the common transport policy of the European Union as a set of actions at the level of the European Union and its member states in order to achieve a balanced, coordinated regulation of relations in the European transport market [15, p. 17]. He notes that the peculiarity of this policy is that transport policy is based, in particular, on the principles of protectionism of its own markets for transport services from external influences.

For example, technical standards for vehicles are often formulated in EU Member States precisely in such a way as to protect the transport services market from external competition.

As for the national transport policy itself, it is necessary, first of all, to determine what purpose it pursues?

The main goals and objectives of the national transport policy, as we noted, include the following: the development of the national market of transport services; development of the national market (domestic economic factor); further development of the actual transport industry; ensuring the participation of the state in international trade; legal support for the development of the transport system of Ukraine [16, p. 41-42].

Thanks to Ukraine's participation in international trade, the integration of national economic systems and legal integration (as one of the important prerequisites for economic) will take place, as well as the strengthening of the processes of international division of labor.

According to O.V. Filipenko, the ultimate goal of the common policy of EU member states in the field of transport is to establish a common market in the field of transport services [14, p. 12]. Another goal of the common transport policy is to make the regulation of transport services markets as effective as possible. Moreover, this efficiency, in turn, is measured by the optimization of the interests of EU member states and the degree of realization of the interests of market participants in transport services, aimed at increasing profits from their activities and access to markets of other countries.

Based on the above, the national transport policy in general can be considered as the activities of specially authorized public authorities and other entities aimed at forming the concept of development of the transport sector and determining the economic and legal measures for its implementation, its priority goal is to stimulate further development of the national market of transport services and entry into the international transport market.

Taking advantage of its advantageous geopolitical position, Ukraine plays an important role in establishing transport links between Europe and Asia. Therefore, one of the main areas of transport policy in recent years is the organization of the functioning and development of international transport corridors and their entry into the international transport network [17, p. 143-150]. The main goal of the national transport policy - the formation, functioning and further development of the national

market of transport services can be realized, in our opinion, through full accession of Ukraine to the world network of international transport corridors as an equal partner with high development potential.

The signing of the Association Agreement between Ukraine and the EU gave a new impetus and content to the development of international transport and set new challenges for national transport policy. First of all, it should be noted that Article 367 of the Agreement establishes the main directions of European transport policy in the framework of cooperation with Ukraine: expanding and strengthening cooperation in the field of transport in order to promote the development of stable transport systems; сприяння здійсненню ефективних і безпечних транспортних перевезень, а також інтермодальності й оперативної сумісності транспортних систем; докладання зусиль для посилення основних транспортних зв'язків між територіями Сторін [18].

In fact, these are guidelines for the Ukrainian side, which must be achieved. The analysis of Article 368 of the Agreement gives grounds to highlight the first steps that need to be taken by our state in the transport sector:

- 1) restructuring and renewal of the transport sector of Ukraine and gradual harmonization of existing standards and policies with existing ones in the EU without prejudice to the obligations arising from individual transport agreements;
- 2) improving the movement of passengers and cargo, increasing the flow of traffic between Ukraine, the EU and third countries in the region by eliminating administrative, technical, border and other obstacles, improvement of the transport network and modernization of infrastructure, in particular on the main transport axes connecting the Parties.
- 3) exchange of information and joint activities a) at the regional level, in particular taking into account and implementing progress made under various regional transport arrangements, including the Eastern Partnership Transport Panel, the Europe-Caucasus-Asia Transport Corridor (TRACECA), the Baku Process and other transport initiatives; b) at the international level, in particular international

transport organizations and international agreements and conventions ratified by the Parties; within various EU transport agencies.

In accordance with the provisions of Art. 369 of the Agreement is cooperation, covering the following areas, not limited to them:

- a) the development of a sustainable national transport policy, covering all modes of transport, in particular with a view to ensuring efficient and safe transport systems, and promoting the integration of transport initiatives into other policies;
- b) development of sectoral strategies based on national transport policy (including regulatory requirements for the modernization of technical equipment and fleets to meet the highest international standards) for road, rail, river, sea and air transport, as well as intermodality, taking into account the timing and main stages of implementation, administrative responsibility and financial plans;
- c) the development of a multimodal transport network linked to the Trans-European Transport Network (TEN-T) and the improvement of infrastructure policies to better identify and evaluate infrastructure projects for different modes of transport;
- d) accession to relevant international transport organizations and agreements, in particular procedures for ensuring the strict application and effective implementation of international transport agreements and conventions;
- e) scientific and technical cooperation and exchange of information for the development and improvement of transport technologies, such as intelligent transport systems;
- f) promoting the use of intelligent transport systems and information technology in the management and use of all modes of transport, and supporting intermodality and cooperation in the use of space systems and the implementation of commercial solutions that facilitate transport.

Transport itself is the infrastructure of the market, but has its own internal structure, which is cross-sectoral in nature. Therefore, a competent transport policy will determine the development of mechanical engineering, construction industry, and will inevitably determine the development of all other related sectors of the economy,

affect employment, stimulate the development of the economy as a whole, both at the regional or national level, and at the international level.

Ukraine is central to the Pan-European Road and Rail Corridors network. The EBRD and the EIB provide investment financing to improve these and other major transport infrastructure. It is very important not to lose these leading positions. We believe that it is necessary to make appropriate changes and additions to the current legislation taking into account the priority of research on national transport security of Ukraine, defining its features, elements, subjects and objects, as well as outlining the range of its challenges and threats.

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