

THE DEVELOPMENT OF THE TRANSPORT SPHERE IN UKRAINE, MULTIMODAL TRANSPORTATION

РОЗВИТОК ТРАНСПОРТНОЇ СФЕРИ В УКРАЇНІ, МУЛЬТИМОДАЛЬНІ ПЕРЕВЕЗЕННЯ

Puzikova V.S., Advocate,
Activist of the Protection Human Rights

The article analyses topical theoretical and methodological issue of contract law according to the transport and multimodal transportation as a source of contract law and contract relationships and economy in Ukraine.

Globalization of the world, increase in demand for exports, in particular food products, growth in production has a significant impact on indicators of transport activity. Transport is one of the main links of the economy of every state, including Ukraine. Multimodal transportation is a promising direction for the development of the transport sector in Ukraine and the realization of its transit potential. With the adoption of the Association Agreement with the European Union, Ukraine undertook to harmonize legislation with European legislation, including in the field of transport. Chapter 7 of the one-day agreement is devoted to transport and transportation, a new possible direction of partnership and cooperation between Ukraine and the EU in all spheres of transport.

Directive 92/106/EEC of December 7, 1992 provides that multimodal transportation is the ergonomic transportation of goods by several modes of transport in accordance with one contract of multimodal transportation. Multimodal transportation aims to solve environmental and economic problems. Use of cleaner modes of transport, environmental protection, green effect, search for alternative energy sources, focus on container transportation are the main priorities of this policy regarding multimodal transportation.

In connection with the armed aggression of the Russian Federation, through which many transport corridors have to pass, it is very important to look for alternative transport corridors in modern times that can connect the West and the East, liberalize Ukrainian legislation, and look for new ways of partnership and cooperation in the international arena.

Key words: geopolitical location, transit potential, transport corridor, multimodal transportation.

Стаття присвячена висвітленню однієї з актуальних теоретико-методологічних проблем господарського права щодо питання транспортної сфери як основної ланки господарсько-правових відносин та економіки в Україні, а також мультимодальним перевезенням.

Глобалізація світу, підвищення попиту на експорт, зокрема продуктів харчування, зростання виробництва має значний вплив на показники транспортної діяльності. Транспорт є однією з основних ланок економіки кожної держави, в тому числі й України. Мультимодальні перевезення є перспективним напрямком розвитку транспортної сфери в Україні та реалізації її транзитного потенціалу. З ухваленням Угоди про Асоціацію з Європейським Союзом, Україна взяла на себе зобов'язання гармонізувати законодавство до європейського, в тому числі й в сфері транспорту. Розділ 7 даної угоди присвячено транспорту та перевезенням, новим можливим напрямки партнерства та співробітництва України з ЄС у всіх сферах транспорту.

Директива 92/106/ЄЕС від 7 грудня 1992 року передбачає, що мультимодальне перевезення – це ергономічне перевезення вантажів кількома видами транспорту відповідно до одного договору мультимодального перевезення. Мультимодальне транспортування має на меті вирішення екологічних та економічних проблем. Використання більш чистих видів транспорту, захист навколишнього середовища, зелений ефект, пошук альтернативних джерел енергії, фокус на контейнерні перевезення є основними пріоритетами даної політики щодо мультимодальних перевезень.

У зв'язку із збройною агресією Російської Федерації, через яку проходить багато транспортних коридорів, дуже важливо шукати на теперішній час альтернативні транспортні коридори, які можуть сполучувати Захід та Схід, лібералізувати українське законодавство, шукати нові можливі шляхи партнерства та кооперації на міжнародній арені.

Ключові слова: геополітичне розташування, транзитний потенціал, транспортний коридор, мультимодальні перевезення.

Ukraine occupies a unique geopolitical location, which has both advantages and disadvantages. It borders by land with Belarus, Hungary, Moldova, Poland, Romania, Russia and Slovakia, by sea Bulgaria, Georgia, Romania, Russia and Turkey. One advantage is the location at the crossroads of strategically important trade and transport routes, which allows developing transit potential because, as we know, the economic location dominates even geographic location.

Transport system plays a great role in the economical growth by the trade relationship, export-import relationship, involved in the ensuring cycles of commodity and money circulation of the Ukraine economy. It is an independent component of each of the spheres of social reproduction: production, distribution, exchange and consumption. Ukraine's economy depends in great level on the production and sale of the number of bulk commodities, including coal, iron ore; steel and agricultural products that require shipment by the railway in order to reach at the same time both domestic and export markets economically.

If we compare railway transport with other kinds of transport, we can see certain advantages of it. The trains can move with higher speeds and capable of carrying large volumes of cargo and passengers, than autos for example. The railway's steel tracks can take heavy axle load about in 3 to 4 times heavier, than general road. If we compare railway transport and air

transport, we can see, that the air transport is the costliest system of transport and can't take so heavy cargo like railway and in such quantity, as railway can. Moreover, we should remember that the cargo transportations are too important for the economic and its development in every country and it has more benefits in the compare with passenger transportations [55].

Ukraine has great transit potential, because situated between Europe and Asia, but for this moment not realized.

There are some transport corridors through the territory of Ukraine, but at the same time, the development of international transport corridors that connect different regions of Ukraine with foreign countries is weak. In addition, different parts of Ukraine have lack of transport logistics routes between them, especially freight routes. Russian invasion has negative impact for it (pic. 1).

During long time transport system, in particular, railway is under reforming, but we have not certain progress in it. It is more post-soviet system with central vertical control systems. Railway plays a key role in the transport system in Ukraine. Ukrzaliznytsia remains the main carrier cargoes and the main transport artery of Ukraine.

Ukraine should become a regional logistics center. Nevertheless, in nowadays it is not achieved mainly due to significant costs for transshipment of goods, serious regulation of the activities of transport state structures and corrup-



Pic. 1

Source: *UkraineIN Transit Potential HYMinistry of Infrastructure (mtu.gov.ua)*

tion at the border. Development strategy of Ukrzaliznytsia, developed on the basis of the National Transport Strategy of Ukraine until 2030 [1]. But, general attention is not enough paid to the ways of transit development in the strategy. In order to develop and realize transit potential its important:

- to form a flexible tariff for transit, which will change instantly depending on changes in cargo prices on world markets, increase or decrease in demand from final recipients;
- minimize the bureaucratization of tariff adjustment is necessary (ideally – formula pricing);
- perform the maximum possible speed of transit through the territory of Ukraine;
- digitalize the transit process in the sense of electronic document flow and online freight tracking;
- make guarantees of safekeeping of transit cargo and timely return of rolling stock, including risks, connected with war (special insurance).

Rail transport in Ukraine has a great development potential. Nowadays, Ukrzaliznytsia plans to develop multimodal transport services with other countries as a direction of ensuring sustainable development of the transport system of Ukraine. This Strategy was also discussed on the 5th German-Ukrainian Business Forum Rebuild Forum, that was 24th October 2022 in Berlin.

Ukraine should move towards introduction of legal mechanisms for wider use of multimodal freight traffic in the transport system and for promotion of environmental protection. In order to harmonize Ukraine's transport policy with the European Green Course and create a sustainable multimodal transport system on this basis, it is necessary to implement effective solutions to reduce the dependence of the transport sector on petroleum products through the introduction of green technologies.

All sides of the logistics process are often located in different countries and continents, which excludes the possibility of direct supply directly under the door. The situation requires planning an effective chain in which the goods are consistently delivered by several subspecies of freight transport. The need to move cargo transported in containers, using several different modes of transport, is the basis of multimodal transportation. Multimodal transportation is one of the most responsible logistics operations, as they require special control along the entire route of the cargo. After all, the conclusion of contracts with

various transport companies, as well as problems with loading and unloading operations, significantly affect both the safety of the goods and the financial side of the issue. In addition, constant monitoring of the transportation procedure also entails significant time costs. An effective combination of railway, road, sea, air transportation under one contract, allows not only to save time, but also to significantly reduce the cost of transported items. In addition, in this case, the responsibility for the safety of the goods, as well as the care of its overload from one vehicle to another, is assumed by the company that produces transportation. The time and expenses for transport and logistics shall be also greatly optimized by introduction of a single contract for multimodal transportation. It is too important for Ukraine to establish its own multimodal potential, because multimodal container transportation is the basis of a profitable business and economy of the country. Up to 30 million mt of agricultural products are expected to be imported into EU in 2022/2023: max 18-20 million mt by railway, max 3 million by trucks. 12.05.2022 the European Commission adopted an action plan to establish Solidarity Lanes. According to this Act, the priority is to mobilize and use the infrastructure as efficiently as possible.

One of the examples of it can be a family business Ukrainian organization Nibulon from Mykolaiv region by the Vadaturskyys' Family. Organization is responsible for grain production and exports, logistics, shipping, infrastructure construction, and shipbuilding. Nibulon's logistics includes 1 million tons by rail in 2020/21 MY. And 15.04.2022 after Russia's invasion Nibulon made the decision to build a transshipment terminal on the Danube and 15.09.2022 first barge loaded [2].

Edvin Berzins has truly mentioned in the article – Ukrzaliznytsia to develop multimodal transport services, published in Railwaypro in March 2021 [3], at this moment there is almost no multimodal connection between Ukraine and the European Union countries and the share of the container traffic in Ukraine is too low. Nevertheless, an extensive network of multimodal corridors and terminals covers the EU countries, and the share of container traffic reaches 45%. "That is why Ukrzaliznytsia considers it necessary to take a number of steps **to explore the country's multimodal transport potential** together with shipping lines, terminal operators, freight forwarders, ship-

pers and large industrial manufacturers”, said Edwin Berzins explained. The plans cover the expansion of Ukrzaliznytsia’s network of terminals, including the involvement of private companies, the agreements with global logistics operators, including those represented on the Ukrainian market such as DHL, Maersk, COSCO and others. Stable contractual relations with the transport and logistics companies, including the manufacturers of domestic and international market will significantly strengthen the competitive position of Ukrzaliznytsia and Ukraine as a whole in the international transport market. This will positively affect all logistics chain and industry. The rail container transport in Ukraine has significant growth potential and in next three years, it may increase from 1-2% to 15%, but this requires the development of a transit route.

On 17 November 2021, the Ukrainian Parliament adopted the Law of Ukraine “On Multimodal Transportation”. This Law came into force on 19 December 2021. Its aim is the development and improvement of multimodal transportation operations—transportation of goods by two or more modes of transport based on one transportation agreement under one transportation document. Previously, the area of multimodal transportation in Ukraine at all was weakly regulated. Thus, the legal field introduces the concept of “multimodal transportation of goods” – transportation by two or more modes of transport based on a contract of multimodal transportation, carried out on a single transport document on the entire route. Organizing transportation through several transportation means required significant effort and the cooperation of many parties. The document also defines the concepts of “combined cargo transportation”, “multimodal terminal”, “multimodal transportation document”, etc. The Law simplifies these procedures by approximating the Ukrainian laws to the European Union regulation, namely the Council Directive 92/106/EEC of 7 December 1992 on the Establishment of Common Rules Types of Combined Transport of Goods between the Member States. The most significant amendments the Law introduces are: 1) Multimodal goods transport operations can be

carried out under a single agreement between the customer and the operator. It is the operator’s responsibility to engage other carriers. The Law establishes material terms that must be included in such agreements. 2) The operator is directly responsible for the transportation of goods during the entire transportation process. If the transported goods are damaged, the customer does not need to find out and prove which specific carrier was responsible for the damage. The customer instead is able to submit the claims for damage compensation directly to the operator. 3) Further, the operator is not only responsible for the carriers’ actions, but also those of the owners/holders of multimodal terminals as well as of other third parties engaged by the operator to transport the goods. 4) The responsibility of the operator is limited by an amount calculated under the terms provided by the Law. However, if the value of the goods declared by the customer in the multimodal agreements is higher than the amount of the operator’s limited responsibility under the Law, the limitation of the operator’s responsibility will be established according to the multimodal transportation agreement. 5) The multimodal goods transportation is to be carried under a single transportation document (multimodal transportation document). The Law establishes material terms that must be included in such a document. 6) The multimodal goods transportation will be carried out through multimodal terminals. The Law also establishes the rights of all the participants in the multimodal transportation process—customers, operators, carriers, owners/holders of the multimodal terminals—and regulates relations related to multimodal goods transportation, such as the operation of multimodal terminals [4].

In order to increase the level of transport and logistics infrastructure to ensure the appropriate volume of multimodal transportation, it’s too important to perform the multimodal terminals, improve regulatory of the regulation of multimodal transportation and have sufficient state support for international transportation and development of transport and logistics infrastructure, PPP and investment in it.

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