

## TARIFF REGULATION OF RAIL TRANSPORTATION UNDER GERMAN LEGISLATION

ТАРИФНЕ РЕГУЛЮВАННЯ ЗАЛІЗНИЧНИХ ПЕРЕВЕЗЕНЬ  
ЗА ЗАКОНОДАВСТВОМ НІМЕЧЧИНИ

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The article examines provisions of German legislation on tariff regulation of railway transportation of passengers and goods. It is emphasized that Germany's rail transport system is one of the most developed in Europe. It is characterized by thorough legal regulation and focuses on ensuring fair competition, transparency, accessibility and profitability of transport services.

The key provisions of the Law of the Federal Republic of Germany dated 27.12.1993 «On Railways» and the Law of the Federal Republic of Germany dated 29.08.2016 «On the Regulation of Railway Transport», in the part of the tariff regulation of rail transportation of passengers and cargo, are highlighted.

The general procedure for approving tariffs for railway transportation is characterized, the content of its main stages is disclosed: determination of the basic level of general costs; setting the upper limit of these costs; approval of payments based on the calculations made.

Exceptions to the general rules of tariff regulation of rail transportation are analyzed. Their leading role in supporting local carriers and strengthening market dynamics is emphasized.

The general orientation of the German legislation on tariff regulation of rail transport is established on simulating entrepreneurship, economic competition, improving the quality and safety of rail transport, balancing public and public interests in the field of rail transport. A conclusion was made about the high efficiency of tariff regulation of railway transportation in modern Germany. Thanks to detailed legal regulations, transparent tariff structures and effective mechanisms of public control, Germany is able to constantly increase the efficiency and profitability of rail transportation. These mechanisms are crucial to prevent monopolization and ensure that all operators can compete on a level playing field.

The importance of the study of the German experience by other states in the context of the unification of the tariff regulation of railway transportation on the territory of the European Union is substantiated.

**Key words:** railway transport, railway transportation, tariff regulation.

У статті розглядаються положення законодавства Федеративної Республіки Німеччина про тарифне регулювання залізничних перевезень пасажирів і вантажів. Наголошується, що система залізничних перевезень Німеччини є однією з найрозвиненіших у Європі. Вона характеризується ґрунтовною правовою регламентацією та орієнтується на забезпечення чесної конкуренції, прозорості, доступності і рентабельності транспортних послуг.

Висвітлено ключові положення Закону Федеративної Республіки Німеччина від 27.12.1993 р. «Про залізниці» та Закону Федеративної Республіки Німеччина від 29.08.2016 р. «Про регулювання залізничного транспорту», в частині тарифного регулювання залізничних перевезень пасажирів і вантажів.

Охарактеризовано загальну процедуру затвердження тарифів на залізничні перевезення, розкрито зміст її основних етапів: визначення базового рівня загальних витрат; встановлення верхньої межі цих витрат; затвердження платежів на основі здійснених розрахунків.

Проаналізовано винятки із загальних правил тарифного регулювання залізничних перевезень. Підкреслено їх провідну роль у підтримці локальних перевізників та посиленні динаміки ринку.

Констатовано загальну спрямованість німецького законодавства про тарифне регулювання залізничних перевезень на симулювання підприємництва, економічної конкуренції, підвищення якості і безпеки залізничних перевезень, збалансування публічних і суспільних інтересів у галузі залізничного транспорту. Зроблено висновок про високу ефективність тарифного регулювання залізничних перевезень в сучасній Німеччині. Завдяки детальній правовій регламентації, прозорим структурам тарифів та дієвим механізмам публічного контролю Німеччина має змогу постійно підвищувати ефективність і рентабельність залізничних перевезень. Ці механізми мають вирішальне значення для запобігання монополізму та забезпечення того, щоб усі оператори могли конкурувати на рівних умовах.

Обґрунтовується важливість вивчення німецького досвіду іншими державами у контексті уніфікації тарифного регулювання залізничних перевезень на теренах Європейського Союзу.

**Ключові слова:** залізничний транспорт, залізничні перевезення, тарифне регулювання.

**Problem Statement.** The study of German legislation on railway tariff regulation holds significant relevance for European countries striving to enhance their railway systems. Germany's regulatory framework stands out as a compelling case for examination, characterized by its emphasis on transparency, efficiency, and equitable access – key components essential for fostering a competitive railway environment.

One of the most noteworthy aspects of Germany's approach is the successful implementation of regulatory oversight mechanisms that promote non-discriminatory access to railway infrastructure. These mechanisms are critical in preventing monopolistic practices and ensuring that all operators can compete on a level playing field.

German experience can give effective insights into mitigating unfair pricing and enhancing market competition. Moreover, the methodologies employed in Germany for cost calculation and tariff setting serve as a model for promoting clarity and consistency in pricing structures.

This transparency is vital for building stakeholder trust and ensuring that tariffs accurately reflect operational costs. As well, it encourages operational efficiency and innovation among railway operators.

Exploring these incentives helps to develop and to perform improvements within national rail sectors, ultimately benefiting consumers through enhanced service quality. Such examination not only offer valuable lessons but also provide a roadmap for developing more effective and equitable systems across Europe.

**The aim of the article** is to analyze the German legislation on railway transport in terms of tariff regulation of railway transportation of passengers and goods.

**State of scientific research on problematic.** Legal grounds of railway transportation of passengers and goods have been explored by R. Sirko, V. Kadala, A. Kalyuzhy, M. Kovaliv and others [1; 2; 3; 4; 5; 6]. However, the German experience of tariff regulation of railway transportation in Ukraine has not been comprehensively studied.

**Main material.** Germany's railway system is one of the most advanced in Europe, characterized by a complex regulatory framework that governs tariff structures for railway transportation. This framework is designed to ensure fair competition, transparency, and efficiency within the sector. The regulation of railway tariffs in Germany involves various stakeholders, including the federal government, regulatory authorities, and railway undertakings (RUs).

The primary legal instruments governing railway tariff regulation in Germany include the General Railway Law (Allgemeines Eisenbahngesetz – AEG) and the Rail Regulation Act (Eisenbahnregulierungsgesetz – ERegG). These laws establish the foundational principles for access to railway infrastructure, capacity allocation, and tariff setting.

The AEG establishes a comprehensive regulatory framework for the railway sector, particularly focusing on tariff setting. This Law is designed to ensure fair competition, transparency, and efficiency in the railway market while balancing public service obligations with the financial sustainability of railway operations [7].

At its core, the AEG aims to provide non-discriminatory access to railway infrastructure for all railway undertakings. This principle is crucial for fostering competition among RUs and ensuring that no operator is unfairly disadvantaged. The law emphasizes the need for transparency in pricing structures, mandating that all tariffs be clearly defined and justified. Such transparency allows RUs to make informed decisions regarding their operational costs and pricing strategies.

One of the key components of tariff regulation under the AEG is the establishment of track access charges. These charges are fees that RUs pay for using railway tracks and associated facilities. The AEG stipulates that these charges must reflect the actual costs incurred by infrastructure managers in maintaining and operating the rail network. This includes both fixed and variable costs, ensuring that the pricing structure is aligned with the economic realities of running a railway system [7].

The approval process for track access charges is overseen by the Federal Network Agency (Bundesnetzagentur), which is responsible for ensuring that proposed tariffs comply with legal standards and do not impede competition. All RUs must submit their proposed charges for approval, which helps maintain a level playing field within the industry.

The AEG also defines a «minimum access package», which includes essential services that must be available at regulated tariffs, further promoting fair competition. In addition to track access charges, the AEG regulates station charges, which are fees imposed on RUs for using passenger stations and related facilities [7].

The Law differentiates between passenger platforms, classified as part of railway infrastructure, and passenger stations, categorized as service facilities. This classification leads to different methodologies for calculating these charges, with both types generally requiring approval from the Bundesnetzagentur.

The regulatory oversight provided by the Bundesnetzagentur is crucial in maintaining compliance with tariff regulations outlined in the AEG. The agency monitors adherence to pricing principles and has the authority to approve or reject proposed tariffs based on their alignment with established legal standards [7].

This oversight helps prevent discriminatory practices and ensures that all operators can compete fairly in the mar-

ket. Recent amendments to the AEG have introduced further refinements to tariff regulation, enhancing transparency requirements and aligning the framework with European Union directives aimed at liberalizing rail markets.

These changes reflect an ongoing commitment to improving accessibility and affordability in rail transport while supporting sustainability initiatives.

In turn, The Rail Regulation Act (Eisenbahnregulierungsgesetz, ERegG) is a critical piece of legislation in Germany that governs the regulatory framework for railway operations, particularly focusing on tariff setting. This act was introduced to replace older regulations and to create a more transparent and competitive environment in the railway sector [8].

The ERegG establishes clear guidelines for how tariffs are to be set, ensuring that they are reasonable, non-discriminatory, and transparent. One of the key features of the ERegG is the requirement for a general approval of track access charges and charges for using passenger and goods platforms. This means that railway undertakings must submit their proposed charges to the Federal Network Agency (Bundesnetzagentur) for approval. The agency evaluates these proposals based on specific criteria outlined in the act, which include ensuring that the charges do not exceed the costs of providing the services plus a reasonable profit margin. This regulatory oversight is essential to prevent discriminatory practices that could disadvantage certain operators.

The ERegG outlines a regular charge approval procedure, which consists of several steps: determining the base level of total costs, setting an upper limit on these costs, and finally approving the charges based on these calculations [8].

The first step involves establishing a base level of total costs using historical data from previous fiscal years. This ensures that charges reflect actual operational costs and performance metrics. The regulatory authority assesses these costs to create a benchmark for future pricing.

The second step sets an upper limit on total costs, which acts as a cap on what can be charged to ensure that operators do not impose excessive fees.

The third step is the formal approval of the proposed charges. Charges are eligible for approval if they do not exceed the established cost limits and if they cover the minimum access package – a set of essential services required for train operations. This package includes fundamental services such as infrastructure capacity allocation, signaling, and train control [8].

The ERegG also introduces different types of approval processes depending on the nature of the route operator. For instance, there is a «simplified charge approval» procedure for operators whose infrastructure does not have strategic importance. These operators may be exempt from certain provisions of charge regulation, allowing them to submit their proposed charges with fewer requirements compared to larger operators. Such flexibility is intended to facilitate market entry and competition among smaller players.

Additionally, the Act distinguishes between different types of railway infrastructure in terms of tariff calculation. For example, passenger platforms are classified as part of railway infrastructure and are included in the minimum access package, while passenger stations are treated as service facilities with different charging principles. This differentiation affects how tariffs are calculated and approved, reflecting the specific nature of the services provided [8].

The ERegG mandates that all charges must be calculated based on principles that ensure they are reasonable and transparent. This includes averaging charges across the operator's entire network and applying consistent principles throughout.

The Act also requires that any changes to charging principles be notified to the Bundesnetzagentur, ensuring ongoing regulatory oversight.

At the same time The Rail Regulation Act outlines several exceptions to tariff regulation, which are critical for

understanding the flexibility afforded to certain railway operators. These exceptions are delineated in various sections of the ERegG and serve to promote competition while recognizing the diverse nature of railway operations.

One of the primary exceptions pertains to local railway network operators whose infrastructure is deemed not to have strategic significance for the overall railway market. According to § 2(6) of the ERegG, these operators may be exempt from specific provisions of tariff regulation. This exemption can be either partial or complete, depending on the circumstances surrounding the operator's infrastructure and its impact on the broader market [8].

Furthermore, § 2a(1) of the ERegG states that certain small operators with networks up to 1,000 kilometers in length may automatically qualify for exemptions from some tariff regulation provisions without requiring prior regulatory approval. This provision is designed to facilitate market entry for smaller players by reducing regulatory burdens.

Operators benefiting from these exemptions can utilize a simplified approval procedure for their tariffs. As outlined in § 33(1) of the ERegG, these operators are required only to submit their proposed charges without needing to provide detailed justifications for their pricing principles. This streamlining allows for quicker implementation of tariffs and encourages competitive practices among smaller or less strategically significant operators.

In cases where operators are exempted under § 2(6), they are not bound by certain requirements related to tariff differentiation across their networks. This means that they have greater latitude in establishing their pricing structures without adhering to the principle of average rates across their entire infrastructure [8].

The exceptions outlined in the Rail Regulation Act (ERegG) provide essential flexibility for certain railway operators in Germany. By allowing local and smaller network operators to operate under less stringent tariff regulations, the ERegG aims to foster competition and enhance market dynamics within the railway sector. These provisions reflect a nuanced approach to regulation that balances the need for oversight with the realities of operating diverse railway systems.

In general, the Rail Regulation Act (ERegG) provides a comprehensive framework for tariff setting in Germany's railway sector. By establishing clear approval processes, dif-

ferentiating between types of infrastructure, and enforcing principles of transparency and non-discrimination, the ERegG aims to create a competitive environment that benefits both operators and consumers. Through regulatory oversight by the Bundesnetzagentur, the act seeks to maintain fair pricing practices while promoting efficiency and accessibility within the railway system.

**Conclusion.** In general tariff regulation of railway transportation in Germany exemplifies a well-structured approach aimed at balancing competitiveness with public interest. Through a robust legal framework, transparent tariff structures, and effective regulatory oversight, Germany continues to enhance its railway system's efficiency and accessibility. Ongoing developments reflect a commitment to adapting to market needs while striving for sustainability in transportation practices. As such, Germany serves as a model for other EU countries seeking to refine their own railway tariff regulations in alignment with broader European goals.

One of the primary strengths of the German model is its emphasis on regulatory oversight, which ensures fair access to railway infrastructure and prevents discriminatory pricing practices. This focus on fairness is critical for fostering competition among railway operators, ultimately benefiting consumers through improved service quality and pricing.

Additionally, the German framework incorporates comprehensive cost calculation methodologies that promote transparency in tariff setting. By establishing clear guidelines for determining access charges, Germany provides a model that can help other nations avoid inconsistencies and ambiguities in their own tariff structures.

Moreover, the concept of a «minimum access package» ensures that essential services are available at fair prices, which can serve as a benchmark for countries struggling with equitable service provision. The inclusion of incentive mechanisms aimed at promoting operational efficiency further enhances the competitiveness of the rail sector, encouraging innovation and improved service delivery.

In summary, studying German railway tariff regulations presents an opportunity for other European countries to learn from best practices that could lead to more effective and equitable railway systems. By adapting elements of Germany's regulatory framework, nations can work towards achieving greater efficiency, competitiveness, and overall improvement in their railway services.

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