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## THE LEGAL GROUNDS OF TARIFF REGULATION FOR RAILWAY TRANSPORTATION OF GOODS IN THE REPUBLIC OF POLAND

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### **Gurzhii T., Mushenok V., Gurzhii A. The legal grounds of tariff regulation for railway transportation of goods in the Republic of Poland.**

The article revolves around legal and organizational aspects of tariff regulation for freight rail transport in the Republic of Poland. A detailed characterization of the Polish legislation on tariff regulation of freight transportation by rail was carried out. Its correlation with the requirements of the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 Establishing a single European railway area is highlighted.

The main provisions of the Law of the Republic of Poland “On Railway Transport” in the part of the tariff regulation of railway freight transportation has been analysed. It has been stated, that this Law ensures the flexibility of railway transport tariffs and significantly contributes to liberalization of the national market of transport services in Poland.

On the example of Poland, it has been proven that the liberalization of the tariff regulation of railway transportation ensures a reasonable balance between the economic interests of the state and private business. In general tariff regulation of railway transportation of goods in the Republic of Poland is characterized by high efficiency.

It has been established that the development of the legal basis for the tariff regulation of rail freight transportation in the Republic of Poland is dominated by the trends towards the creation of a competitive rail freight transportation market; liberalization of tariff regulation of railway transportation; ensuring non-discriminatory access to railway transport infrastructure; inclusion of an investment component in tariffs for mandatory infrastructure access services.

It was concluded that the outlined trends serve as a reliable reference point for the development of the legal basis for the tariff regulation of rail freight transportation in Ukraine, which is confidently moving towards integration into the EU economic system. Their consideration is an important step on the way of regulatory adaptation to the *acquis communautaire* of the European Union. Systematic

consideration of these trends when updating industry legislation will significantly contribute to ensuring the stability, safety and economic return of rail freight transportation.

**Key words:** legal regulation, railway transport, railway transportation of goods, transportation, tariff regulation.

**Гуржій Т.О., Мушенюк В.В., Гуржій А.В. Правові засади тарифного регулювання залізничних перевезень вантажів у Республіці Польща.**

У статті досліджуються правові та організаційні аспекти тарифного регулювання залізничних перевезень вантажів у Республіці Польща. Здійснено детальну характеристику польського законодавства про тарифне регулювання перевезень вантажів залізничним транспортом. Висвітлено питання його кореляції з вимогами Директиви Європейського Парламенту і Ради Європи від 21.11.2012р. №2001/14/ЄС “Створення єдиного європейського залізничного простору”.

Розкрито зміст основних положень Закону Республіки Польща “Про залізничний транспорт” в частині тарифного регулювання залізничних перевезень вантажів. Констатовано, що цей Закон забезпечує гнучкість тарифів на залізничному транспорті та є важливим інструментом лібералізації національного ринку транспортних послуг у Польщі та Європейському Союзі.

На прикладі Польщі продемонстровано, що лібералізація тарифного регулювання залізничних перевезень забезпечує розумний баланс між економічними інтересами держави та приватного бізнесу. Доведено, що в цілому тарифне регулювання залізничних перевезень вантажів у Республіці Польща характеризується високою ефективністю.

Встановлено, що у розвитку правових засад тарифного регулювання залізничних перевезень вантажів у Республіці Польща домінують тенденції щодо створення конкурентного ринку вантажних перевезень на залізничному транспорті; лібералізації тарифного регулювання залізничних перевезень; забезпечення недискримінаційного доступу до інфраструктури залізничного транспорту; включення інвестиційної складової у тарифи на обов'язкові послуги з доступу до інфраструктури.

Зроблено висновок про те, що окреслені тенденції слугують надійним орієнтиром для розбудови правових засад тарифного регулювання залізничних вантажоперевезень в Україні, яка впевнено рухається шляхом інтеграції до економічної системи ЄС. Їх урахування є важливим кроком на шляху регуляторної адаптації до *acquis communautaire* Європейського Союзу. Системне урахування цих тенденцій при оновленні галузевого законодавства істотно сприятиме забезпеченню стабільності, безпеки та економічної віддачі залізничних вантажоперевезень.

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

**Problem Statement.** An important prerequisite for the progressive development of tariff regulation in railway transportation is a thorough study of foreign experience. Analyzing international practices allows for the assessment of the prospects for implementing the most effective tariff regulation models in Ukraine, identifying key trends and patterns in the development of railway transport legislation in various countries, and tracing their correlation with the processes of European integration and the Europeanization of national legal systems.

This will facilitate a smooth transition for Ukraine to international standards of state regulation of freight transportation, unify the conceptual and categorical apparatus of legislation, optimize the content and structure of normative legal acts concerning railway transport, identify the most vulnerable links in sectoral regulation, clarify the origins of existing problems, find optimal ways to resolve them, avoid common mistakes, borrow proven practices, and ultimately ensure maximum socio-economic “return” from the railway transport sector.

In this context, the legislation on tariff regulation for railway transportation in Eastern European countries, particularly the geographical neighbors of Ukraine, is of particular interest. Since the second half of the 20th century, the development of legal regulation in railway transport in these countries and Ukraine has occurred under very similar socio-economic and political-legal conditions. Until the 1990s, this development took place within a framework of state ownership of the means of production, centralized economic planning, the dominance of communist doctrine which tabooed ideas of personal enrichment, strict state control over all spheres of economic activity (including transport), and a rigid system of penalties for offenses against state property.

**The aim** of the article is to analyze the legislation on tariff regulation of railway transport in the Republic of Poland and to identify the main trends in its development.

**State of scientific research on problematic.** The issues of legal regulation of transportation were widely covered in the scientific works of O.V. Zits, H. Eitutis, O. Krivopyshyn, I. Fedorko, V. Osovyk, and others [1; 2; 3]. At the same time, we must state that the foreign experience of tariff regulation of transport transportation has not been reasonably studied.

**Main material.** Starting from the 1990s, almost all Eastern European countries (with Belarus being a notable exception) abandoned communist ideology and made a rapid transition from a centrally planned to a market economic system through the liberalization of the economy, deregulation of pricing, and privatization of state enterprises and resources. As a result, a market economic system based on the principles of free entrepreneurship, fair competition, and entrepreneurial initiative as a key factor in business development prevailed in their territories.

Influenced by these processes, the national systems of tariff regulation for railway transportation in Eastern European countries have developed along similar trajectories and have ultimately acquired many common features. On the other hand, unlike Ukraine, Eastern European states have made significantly greater progress toward the Europeanization of national legislation (particularly in railway transport and tariff regulation for railway services), encountering numerous challenges along the way and making considerable efforts to overcome them. In this regard, it is impossible to overestimate their experience (both negative and positive). Therefore, let us examine the current state of tariff regulation for railway transportation in Eastern European countries, using the example of the Republic of Poland.

The Polish railway freight transport market is highly liberalized. As of 2024, more than 100 licenses for freight transportation have been issued here. In this regard, as well as in terms of transport volumes, Poland ranks second in the European Union after Germany. The railway transport reform was actively carried out in the early 2000s. In 2001, through the restructuring of the state enterprise Polskie Koleje Państwowe (PKP), the PKP SA Holding was established. The main objective of this step was to separate various service provision areas. More than 10 separate companies were created based on a single enterprise, each with its own balance sheet and reporting. The opening of access to railway infrastructure in Poland practically coincided with the country's accession to the European Union. A year prior to this event (in 2003) the Polish Sejm approved the Railway Transport Law, which replaced the relevant transitional law adopted in 1997 [4].

The Railway Transport Law of 2003 provides a comprehensive framework for the regulation of railway transportation, including specific provisions concerning tariff regulation for freight transport. This law is pivotal in shaping the operational landscape of railway services in Poland, particularly in the context of liberalization and competition within the European Union [5].

The Law promotes a competitive environment by facilitating access to railway infrastructure for various operators. It mandates that all entities wishing to operate railway services must obtain appropriate licenses and comply with safety and operational standards. This liberalization aligns with EU directives aimed at enhancing competition in the railway sector.

The tariff regulation framework established under the law includes several critical components:

**Track Access Charges (TAC):** The law stipulates that railway infrastructure users must pay direct charges for using the infrastructure. These charges are crucial for ensuring the financial sustainability of railway operations and are typically included in the overall transport tariffs charged to customers. The TAC is designed to reflect the costs associated with maintaining and operating the railway infrastructure.

**Cost Recovery Principles:** Article 6 of the law emphasizes that infrastructure managers must ensure that their income from infrastructure charges balances with their expenditures over time. This provision is intended to prevent persistent cash flow deficits that could undermine service quality and investment in infrastructure.

**Non-Discriminatory Access:** The law mandates that all operators have equal access to railway infrastructure without discrimination. This principle is essential for fostering a competitive market, as it allows new entrants to compete fairly with established operators [5].

The Office of Rail Transport (UTK) is tasked with overseeing compliance with the provisions of the Railway Transport Law. The UTK has the authority to monitor market practices, enforce competition rules, and address complaints related to unfair practices among operators.

While the Law provides a framework for tariff regulation, it also allows for flexibility in setting tariffs based on market conditions. Operators can propose tariff adjustments, which must be justified

and submitted for regulatory approval. This process ensures that tariffs remain competitive while also allowing operators to cover their operational costs effectively.

As well, the Law includes provisions for supplementary fees related to specific services, such as terminal access or additional handling requirements. These fees are clearly outlined in individual operator tariffs, ensuring transparency for customers regarding pricing structures [5].

It should be noted, that The Railway Transport Law of 2003 aligns closely with EU directives, particularly Directive 2001/14/EC, which governs access to railway infrastructure and sets out rules for charging practices [6]. This alignment helps ensure that Poland's regulatory framework is consistent with broader European standards, facilitating cross-border rail transport and integration into European logistics networks.

The governmental body responsible for regulating access to infrastructure in Poland is the Office of Rail Transport (Urząd Transportu Kolejowego – UTK). UTK is endowed with very broad powers. The Railway Transport Act stipulates that the main functions of the President of UTK include making decisions regarding the provision of railway infrastructure and charging fees for its use, including the determination of such fees.

The agency is tasked with overseeing fair and non-discriminatory treatment of all applicants regarding open access. Decisions on granting open access are made for a period not exceeding five years, and this right cannot be transferred to another applicant. The President of UTK has the power to revoke the permit in several cases, such as gross violations of access usage conditions or the cessation of transport operations for more than six months [4].

A necessary condition for obtaining access is the possession of a transport license. In Poland licenses are provided for conducting passenger and freight transport, as well as for offering traction services separately. Valid permits from other EU member states are also recognized. The requirements for obtaining a license are quite high. For instance, an entrepreneur must demonstrate the ability to fulfill financial obligations within 12 months from the date of issuance of the permit. They must also not have any tax or social payment debts. Additionally, documents certifying the qualifications of employees responsible for safety in operations are required.

The fees for access to infrastructure for freight carriers in Poland are among the highest in Europe. Notably, rates in mainline freight traffic are significantly higher than those in passenger or shunting services. Their levels are periodically reviewed, both downward and upward.

The infrastructure manager may charge the carrier a reservation fee if they do not utilize the allocated capacity. In addition to open access and mainline and shunting traction services, other services are also provided (access to facilities, fuel supply, repairs, technical inspections, communication, etc.) [4].

**Conclusion.** Overall, the tariff regulation of railway transportation of goods in the Republic of Poland is characterized by high efficiency. It correlates well with the requirements of EU legislation and is marked by flexibility, variability, economic justification, and fairness towards all participants in the railway transport market. In the context of the potential impact on the development of tariff regulation for railway transport in contemporary Ukraine, significant interest arises from the steps taken by Polish legislators aimed at:

- creating a competitive market for freight railway transport;
- liberalizing tariff regulation for freight railway transport;
- ensuring non-discriminatory access to railway transport infrastructure;
- facilitating the development of public infrastructure through the investment component in tariffs for mandatory services related to access to infrastructure.

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