

# ПРОБЛЕМИ ГОСПОДАРСЬКОГО ПРАВА

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## THE NATIONAL TRANSPORT POLICY AS A CONDITION OF ECONOMIC SAFETY OF THE STATE

The article identifies that one of the major signs of the present stage of the global economy is strengthening of integration processes. It causes the deepening of international labor division and international economic cooperation. Formation of global and regional labor markets, goods, capital and services are the result of such processes. This leads to the growth of transnational transportation and the international transit of goods.

**Keywords:** transport policy, transport corridor, freight, legal regulation of national transport policy

**Problem setting in general and its connection with important scientific or practical tasks.** Ukraine has a very advantageous location center of Europe, have an outlet to the seas, it is actually the «sheaf» between Europe and Asia. This optimal location, according Litvinchuk I. A. can even compensate the lack of certain raw materials in Ukraine, because our state on the one hand is close to the regions where the raw materials produced directly, on the other – is close to potential consumers of products [1]. Today, however, the specifics of the geopolitical and geo-economic position is used incompletely in the formulation and implementation of economic policy.

**Analysis of recent researches and publications, which initiated to solve this problem and which acts as a support for author, the allocation-unsolved aspects of the problem, which is dedicated to this article.** In general, the lack of fundamental research on issues of legal provision of national transport policies and functioning of the transport market and network of transport corridors should be mentioned. Separate questions of formation of transport policy are considered in works of Preyger D., Pogrebetskiy M., Filipenko A. V., economic bases of functioning of transport corridors on the Ukrainian territory are contained in the work of Novikova A. M. However, the legal definition and the implementation of the national transport policy, its goals and objectives was not considered conceptually by scientists.

**Formulation purposes of article (problem).** The main purpose of this article is the wording of the definition of national transport policy and its main objectives.

**The main material research with full justification of scientific results.** In recent years idea of a pan-European transport system was made in which delivery of cargoes and passengers was performed quickly and smoothly in directions Europe – Asia, Asia – America, Europe and Africa.

Ukraine has the highest in Europe transit rating of 3.11 and a favorable geographical position. That is why our country de facto joined the process of creating pan-European transport system through the signing of legal documents on the establishment, operation and development of international transport corridors.

The idea of establishing international trade routes, which would allow to deliver cargo from the place of production to place of consumption quickly and safely, originated in the ancient world. As pointed out by Filipov V. M., exactly the emergence and gradual strengthening of exchange relations necessitated the development of transport links [2]. Thus can be attributed to them also the way «from the Varangians to the Greeks», and «Chumatskiy Shliah» and «The Great Silk Road» and others. These «transport corridors» had a very extensive infrastructure, «transport» services of appropriate quality have been appropriate also legal support. However, over time, all this was forgotten.

One of the prerequisites for the formation of new transport routes of continental transport connection today is the TRANS-European network (TEN-T) within the European Union, which develops according to the Agreement on the establishment of the EU, the Treaty on the introduction of a Constitution for Europe [3]. The cre-

ation of the European single market has caused the need for transport integration in Europe. Various countries put forward proposals regarding the establishment of a common economic space for free movement of goods, capital and services. So the idea of developing and implementing of the same for all States transport policy became popular.

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

The Cretan conference identified priority transport corridors in the directions West-East and North-South of Europe. 10 routes included in the network of pan-European transport corridors. Four out of ten of the Cretan international transport corridors pass through the territory of Ukraine.

It was determined by the Cabinet of Ministers of Ukraine of 16 December 1996 concerning the priority measures for creating a national network of international transport corridors» the list of transport corridors, which are included as an integral part of international transport corridors.

The legal basis for the development and functioning of the International Transportation Corridor in Ukraine started in 1998 with the adoption of the program of creation and functioning of national network of international transport corridors [4]. Although back in 1997, the Concept of creation and functioning of national network of international transport corridors was adopted [5]. The concept defines the basic principles for the establishment and functioning of the national network of transport corridors for the period up to 2015 and their inclusion into the international transport system. The program provides a set of priority measures aimed at the construction of the PEC for the period up to 2005 and the development of road and rail transport. The program of development of a national network of transport corridors in Ukraine for 2006–2010 was approved in April 12, 2006 by the Decree of Cabinet of Ministers [6]. The concept and Programs at first involving the construction of the PEC in accordance with the existing system of roads, and then following by construction of new roads. Now the urgent problem is creation of infrastructure of international transport corridors, which would be consistent with international standards in this sector, the harmonization of European and national legislation. Therefore, the establishment and further development of the national transport market and the integration into international transport communications are the primary objectives of the national transport policy. We believe that such measures will increase the political rating of the country, its eco-

omic situation, but also affect the economic security of the state.

It should be noted that the analysis of tendencies of development of transport on the territory of Ukraine gives grounds to assert that. Rapid growth of volumes of transportations, expansion of foreign trade relations, the emergence of new ways of other positive developments in the case of policy directions of the country for the support and development of transportation by means of a system of legal, economic and organizational resources is obvious. At the same time, when policy was aimed at satisfying selfish interests of the governors, then, consequently, the development of the traffic has stopped, were actually closed goods markets, and the geography of transportation has been transferred to other countries. This is not surprising, because the development of transportation completely depends on the policy of the state, and in this direction from the national transport policy. In such a case, the transport policy of the state is realized in several directions: the organization of construction of transport infrastructure, ensure of traffic safety, security of routes, tariff policy, tax policy, development of legislation etc. The effectiveness of the regulatory impact of transport policy is determined by how these components are correlated among themselves. Therefore, according to Boychuk, R. P. the main objective is a clear definition and systematization of legal regulators of activities in the field of transport, in particular, determination of the mechanism of their regulatory impact, the competences of state authorities in their usage. This will provide an opportunity to predict more accurately the result of this regulatory influence to reconcile the divergent interests in the process of implementation of economic activity and overcoming conflicts that may arise. Therefore, according to Boychuk G. P. the main objective is a clear definition and systematization of legal regulators of activities in the field of transport, in particular, determination of the mechanism of their regulatory impact, the competences of state authorities in their usage. This will provide an opportunity to predict more accurately the result of this regulatory influence to reconcile the interests in the process of implementation of economic activity and overcoming conflicts that may arise [7].

The wording of the definition of «transport policy», its components, in the system of economic policy are important.

The Economic Code of Ukraine has actually started the formation of the modern concept of legal support of national economic policy, focused on different branches of economic activity. Thus, articles 9 and 10 of the Economic Code of Ukraine provides the basic forms and directions of state economic policy. As correctly noted by Bobkova A. G. while commenting article 9 of the Economic Code of Ukraine, economic policy needs to be fixed in the forecast and program documents on social

and economic development, as well as in legislative acts [8]. So just is the remark of Atamanova Y. E., which indicates that, these economic development programs should reflect: the priority sectors of the national economy; the system of legal methods and mechanisms that should be used for the development of selected priority sectors, and relevant government authorities [9].

Zadykhailo D. V. and Yusupov V. directly indicate the country's lack of an effective mechanism that would ensure quality and timely development and approval of the state economic policy in the relevant normative-legal acts, as well as a clear mechanism of its impact as a social imperative on the actual market economic relations [10, 11]. So, Zadykhailo D. V. noted that the triangle «national economic interests» – the «national economic sovereignty» – «national economic security» is an internal factor of the state economic policy. According to the scientist, economic policy must find expression through regulatory acts for special purpose and special legal nature of the state program of economic development and its separate areas [10]. In our opinion, the transport policy of the state should be attributed to separate areas of economic development programs.

As you know, transportation plays an important role in the economy of each state, mediating the process of exchange of goods both within the country and abroad. It should be noted that modern trends of development of world economy are characterized by constant expansion of economic connections, therefore, the integration processes, which involve creation of conditions for free movement of goods, services, capital and labor come up with a priority direction in the policy of developed countries. This leads to a constant increase of transnational flows and international transit of goods.

The Encyclopedic definition of transport policy: «transport policy is an activity of the state and the relevant sector institutions, aimed to support sectors of the economy and population transportation» [12]. D. Prager however, indicates that such a definition is incomplete (and we agree with him), «because it applies only to domestic carriage, in other words, ignores the possibility and expediency of realization of transit potential of Ukraine». Professor gives his own definition of the transport policy, which he interprets as the activities of the authorities aimed at full satisfaction of needs of population, industries and enterprises in transportation, to implement their own transit potential under the cost-based tariff, in compliance with environmental requirements and international obligations of the state in the sphere of development of transport communications [13]. We believe that this vision of the transport policy is indeed a fuller and more adequate to the reality, however, legally is somewhat vague. Thus, the transport policy is not only an activity of public authorities but also other entities (e.g., scientists) who can provide advice regard-

ing its formation and implementation mechanism. Professor gives his own definition of the transport policy, which he interprets as the activities of the authorities aimed at full satisfaction of needs of population, industries and enterprises in transportation, to implement their own transit potential under the cost-based tariff, in compliance with environmental requirements and international obligations of the state in the sphere of development of transport communications. We believe that this vision of the transport policy is indeed a fuller and more adequate to the reality, however, legally is somewhat vague. Thus, the transport policy is an activity not only of Governmental Entity but also other law subjects (e.g., scientists) who can provide advice regarding its formation and implementation mechanism.

Pogrebitsky M. determines the state transport policy as an integrated action program in various areas of activities of the transport complex, including its technical and technological modernization, adaptation to market conditions of economic management, institutional reforms in the sphere of the forms of ownership, economic relations, management systems, integration to the European and world transport systems, personnel and social policy, economic security of the state. This definition is sufficiently full, however, we believe that transport policy is not just a «program of action» [14]. The policy assumes the existence, as object and subject composition, and therefore this definition is not enough «of subjective and substantive perspectives».

Filippenko A. V. stressed that «transport policy should be organized on the basis of the market economy and free and fair competition in all member countries of the conference on the European community level; the gradual facilitation of access to the transport market, transport of goods and passengers within the national territory should be promoted on a reciprocal and bilateral basis and in accordance with the progress that has taken place in achieving free movement of goods and passengers within the national territories and in the process of harmonizing conditions of competition». The researcher under the common transport policy of European Union understands the complex action at the level of the EU and its member States to achieve a balanced, coordinated regulation of relations in the European transport market. Also notes that a feature of this policy is that transport policy based on the principles of protectionism of markets for transport services from external influences. For example, technical standards for vehicles are often formulated in the member States of the EU in this way to protect the transport market from foreign competition [15].

As for the national transport policy, it is necessary, first of all, to decide what objectives it take after.

Analysis of various definitions of transport policy and the study of the essence of transport policy allow to

assert, that to the main goals and objectives of the national transport policy include: the development of the national market of transport services; development of the nation-wide market; further development of the transport sector; ensuring the participation of State in international trade; legal support of development of transport system in Ukraine.

In this context, it is necessary first of all to pay attention to the legal development of the market of transport services, transport system as a whole and give a general characterization of the status of transport legislation.

Legislation in the transport sector is an important component of transport policy. Without going into the debate, we note that the main problems standing in the way of development of transport legislation of Ukraine, are: the existence of outdated legal acts of the USSR, which are contrary to the new market conditions; a large number of legal acts which are inconsistent among themselves, regulating transport activities; inconsistency of existing transport standards with international standards, which leads to great difficulties in implementing of international transportation, which, according to Ovechkin V. E. can bring significant foreign currency revenues to State budget [16].

According to the Economic Code of Ukraine and law of Ukraine «On transport» there is a single transport system which consists of rail, road, water, air and pipeline transport in Ukraine. The most important problem is the fact that you need to lead to «common denominator» legislative array that regulates them for the successful functioning of work coordinating of all institutions in the transport system. In our opinion, to achieve this goal there are several ways:

1. Strengthening of the basic and common provisions to each Institute the in the Economic Code of Ukraine.

2. The adoption of Transport code of Ukraine (hereinafter – TC). We believe it is appropriate to consolidate the following sections: 1. Basic principles of transport policy of Ukraine. 2. The subject of transport law. 3. The concept of the transport system of Ukraine, its structure. 4. The subjects of transport law, the participants of the transport relationships. 5. The transport services market, the market of transport services, and the concept of transport services. 6. Contractual transport relationship is the freight contract, the contract for transport-forwarding services, other contracts, mediating transport activities (parties, their legal status, rights and responsibilities; the direct object of the contract, special conditions of carriage depending on the properties of the individual objects and the like). 7. Means of state regulation and transportation control. 8. Controls the transport system, while also highlighting the institutions of transport law, such as rail, road, water, air and pipeline transport.

In our opinion, the adoption of Transport code of Ukraine is the most efficient and rational, which would perform the function of the Fundamental law in the transport sector. All other normative-legal acts have expanded the provision of this Code and are taken to certain of its foundations.

Another problematic point is the inconsistency of the transport and other legislation, as well as the inconsistency of certain provisions of the transport legislation with international standards, in particular, in the sphere of international road transport (as correctly noted Lipovskaya V.) [17].

The transport itself is the infrastructure market, however, has its own internal structure, which is inter-sectoral in essence. Therefore, a competent transport policy will determine the development of the engineering and construction industry (e.g., construction of roads, bridges, overpasses and the like), as well as certainly entail development of all other related sectors of the economy (in accordance with the infrastructure of the transport market) – for example, service stations, road facilities, etc., affect employment, stimulate overall economic development, both at the regional and national level.

As noted by Filipenko O. V., the ultimate aim of the General policy of member States of the European Union in the field of transport is to establish a common market in transport services. Another goal of the joint transport policy is to make the regulation of transport services as efficient as possible. Wherein this efficiency, in its turn, is measured by the optimization of interests of the member States of the EU and the degree of realization of interests of participants of the of transport services markets, having the purpose of boosting revenue from its operations and access markets of other States. Based on the above, the national transport policy can be regarded as the activity of dedicated government agency and other entities whose objectives are formation of the concept of the transport industry development, the determination of measures for its implementation with the aim of stimulating the development of the national transport market and entering to the international transport market [15].

**Insights from this study and perspectives for further research in this direction.** Ukraine plays an important role in establishing transport links between Europe and Asia taking advantage of its favorable geopolitical position, the existence of a developed network of Railways and highways, modern seaports in Black and Azov seas and in the Danube Delta. Therefore, one of the main directions of implementation of transport policy in recent times is the organization of functioning and development of international transport corridors and integration into the international transport network [18]. The primary objective of national transport policy – formation, functioning



and further development of the national market of transport services can be implemented, in our view, through the entry of Ukraine into the global network of international transport corridors.

Our government has set a course for joining the international trading system in the EU. Therefore, we can expect implementation of investment programs in the transport sector, the expansion of the system of transport

corridors through the territory of Ukraine, and on significant revenue due to the system of transit transportations through the territory of the state. As Belousov E. M. previously noted, intensification of state involvement in international economic cooperation will contribute to strengthening the economic security of the country that in the modern world is one of the main tasks of any state [19].

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### **НАЦІОНАЛЬНА ТРАНСПОРТНА ПОЛІТИКА ЯК УМОВА ЕКОНОМІЧНОЇ БЕЗПЕКИ ДЕРЖАВИ**

У статті визначено, що однією з основних ознак сучасного етапу розвитку світової економіки є посилення інтеграційних процесів. Це обумовлює поглиблення міжнародного поділу праці та міжнародної економічної кооперації. Результатами таких процесів є формування світового та регіональних ринків праці, товарів, капіталів, послуг. Це призводить до зростання транснаціональних перевезень та міжнародного транзиту вантажів.

**Ключові слова:** транспортна політика, транспортний коридор, перевезення, правове регулювання національної транспортної політики.

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### **НАЦИОНАЛЬНАЯ ТРАНСПОРТНАЯ ПОЛИТИКА КАК УСЛОВИЕ ЭКОНОМИЧЕСКОЙ БЕЗОПАСНОСТИ ГОСУДАРСТВА**

В статье определено, что одним из основных признаков современного этапа развития мировой экономики является усиление интеграционных процессов. Это обуславливает углубление международного разделения труда и международной экономической кооперации. Результатами таких процессов является формирование мирового и региональных рынков труда, товаров, капиталов, услуг. Это приводит к росту транснациональных перевозок и международного транзита грузов.

**Ключевые слова:** транспортная политика, транспортный коридор, перевозки, правовое регулирование национальной транспортной политики.