

THE TARIFF REGULATION OF RAILWAY FREIGHT TRANSPORTATION IN EU

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Gurzhii A.V., Timashov V.O., Veselov M. Yu. The tariff regulation of railway freight transportation in EU.

The article examines the provisions of the EU legislation on the tariff regulation of rail freight transportation, as well as the prospects of their implementation in the domestic system of industry regulation.

It is emphasized that the implementation of European rules of tariff regulation on railway transport is an important factor in the development of a competitive environment in the market of transport services, as well as a necessary prerequisite for the attraction of internal and external investments in the development of the railway industry. Such adaptation is extremely important for reducing transport costs, improving the quality of services and the overall efficiency of rail freight transportation.

The key provisions of the Directive of the European Parliament and the Council of Europe of 21.11.2012 № 2001/14/EU "Creation of a single European railway space", which defines the rules for collecting fees for the use of railway infrastructure by freight transport operators, are highlighted. It is emphasized that the Directive envisages the separation of infrastructure management and transport operations to prevent conflicts of interest and stimulate fair competition among market operators. It also defines railway companies' rights to access infrastructure and establishes transparent pricing mechanisms.

The article examines the European experience of creating independent regulatory bodies authorized to monitor market practices, monitor compliance with safety standards, and ensure fair pricing mechanisms.

It was concluded that the implementation of the provisions of the EU legislation on the tariff regulation of rail freight transportation will ensure a significant increase in the competitiveness of domestic rail transport by improving the access of national carriers to the European transport infrastructure, optimizing logistics on rail transport, ensuring transparency and reasonableness of pricing, creating equal conditions for national railway operators.

The importance of the consistent implementation of the provisions of the EU legislation on the tariff regulation of rail freight transportation in the context of the Europeanization of domestic legislation on rail transport and the regulatory approximation provided for by the Association Agreement between Ukraine and the EU is emphasized.

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

Гуржій А.В., Тімашов В.О., Веселов М.Ю. Тарифне регулювання вантажних залізничних перевезень в ЄС.

У статті розглядаються положення законодавства ЄС про тарифне регулювання залізничних перевезень вантажів, а також перспективи

їх імплементації у вітчизняну систему галузевого регулювання.

Наголошується, що імплементація європейських правил тарифного регулювання на залізничному транспорті є важливим чинником розвитку конкурентного середовища на ринку транспортних послуг, а також необхідною передумовою залучення внутрішніх і зовнішніх інвестицій у розбудову залізничної галузі. Така адаптація є вкрай важливою для зниження транспортних витрат, підвищення якості послуг і загальної ефективності залізничних перевезень вантажів.

Охарактеризовано ключові положення Директиви Європейського Парламенту і Ради Європи від 21.11.2012р. №2001/14/ЄС "Створення єдиного європейського залізничного простору", якими визначаються правила стягнення плати за користування залізничною інфраструктурою операторами вантажних перевезень. Підкреслено, що Директива передбачає розділення управління інфраструктурою та транспортними операціями для запобігання конфлікту інтересів і стимулювання справедливої конкуренції серед операторів ринку. Вона також визначає права залізничних компаній на доступ до інфраструктури та встановлює прозорі механізми ціноутворення.

У статті розглядається європейський досвід створення незалежних регуляторних органів, уповноважених здійснювати моніторинг моніторинг ринкових практик, контролювати дотримання стандартів безпеки та забезпечувати справедливі механізми ціноутворення.

Зроблено висновок про те, що імплементація положень законодавства ЄС про тарифне регулювання залізничних перевезень вантажів забезпечить суттєве підвищення конкурентоспроможності вітчизняного залізничного транспорту шляхом поліпшення доступу національних перевізників до європейської транспортної інфраструктури, оптимізації логістики на залізничному транспорті, забезпечення прозорості та обґрунтованості ціноутворення, створення рівних умов для національних операторів ринку.

Підкреслюється важливість послідовної імплементації положень законодавства ЄС про тарифне регулювання залізничних перевезень вантажів у контексті європеїзації вітчизняного законодавства про залізничний транспорт та регуляторного наближення, передбаченого Угодою про асоціацію між Україною та ЄС.

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

Problem Statement. The importance of implementing European Union legislation regarding the regulatory framework for railway freight

transport within Ukrainian law is multifaceted and critical for the country's contemporary socio-economic development. As Ukraine continues to navigate its post-conflict recovery and seeks deeper integration with European markets, aligning its railway regulations with EU standards becomes imperative for several key reasons.

Implementing EU regulatory frameworks will create a more competitive environment in Ukraine's railway sector. By establishing clear rules for market access, including rights for operators to utilize infrastructure on a non-discriminatory basis, Ukraine can encourage both domestic and foreign investment in its railway system. This increased competition is essential for driving down costs, improving service quality, and ultimately enhancing the overall efficiency of freight transport. In a globalized economy, a competitive railway system is vital for attracting businesses that rely on efficient logistics and transportation networks.

A modernized regulatory framework that aligns with EU standards will facilitate smoother cross-border freight transport. Given Ukraine's strategic geographical position as a transit country between Europe and Asia, enhancing its railway infrastructure and regulatory environment is crucial for maximizing trade opportunities. By simplifying customs procedures and ensuring interoperability with EU rail networks, Ukraine can become a key player in regional logistics, thus boosting its economic growth.

The implementation of EU regulations emphasizes sustainability in transport operations, which is increasingly important in today's environmentally conscious world. By adopting practices that internalize external costs associated with railway operations (such as environmental impacts and noise pollution) Ukraine can promote greener transport solutions. This alignment not only supports global sustainability goals but also positions Ukraine favorably within the European framework of sustainable development.

As Ukraine modernizes its railway sector in line with EU legislation, there will be significant opportunities to invest in innovative and environmentally friendly technologies. This transition not only enhances operational efficiency but also contributes to reducing the carbon footprint of the transportation sector. By fostering an environment conducive to technological advancements, Ukraine can attract investments that support sustainable development while improving the overall quality of its railway services.

The aim of the article is to analyze the provisions of EU legislation on the tariff regulation of rail freight transportation and outline the prospects for their implementation in the national legislation of Ukraine.

State of scientific research on problematic.

Legal and organizational aspects of freight rail transport have been extensively covered in the scholarly works of O. Deineka, L. Pozdniakova, A. Nesterenko, M. Kovaliv, V. Matvienko and others [1; 2; 3; 4; 5; 6; 7]. However, the issue of tariff regulation for such transport under EU legislation has not received adequate attention from domestic scholars.

Main material. Today, the main act of the EU on tariff regulation is the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area [7]. This Directive consolidates earlier regulations to enhance competition, efficiency, and create a consistent legal framework for the railway sector across the European Union. It was introduced to address the limitations of previous directives, particularly those from Council Directive 91/440/EEC, Directive 95/18/EC, and Directive 2001/14/EC.

The main goals of the directive include integrating railways into the broader EU transport market to promote sustainable mobility and improve competitiveness against other transport modes. It emphasizes the importance of separating infrastructure management from transport operations to prevent conflicts of interest and encourage fair competition among railway operators. Additionally, it requires that railway undertakings operate independently to foster innovation and improve service quality.

The Directive includes several key provisions regarding infrastructure management. Infrastructure managers are required to manage traffic and maintenance planning impartially, ensuring that all operators have equal access. It also establishes rights for railway companies to access infrastructure and services, along with transparent pricing mechanisms for using this infrastructure. In terms of licensing and regulation, the directive introduces a framework for railway operators. It sets specific criteria for obtaining licenses to ensure that only qualified operators can provide services within the EU.

Member States must also establish independent regulatory bodies to oversee compliance with the Directive's provisions, ensuring fair competition and transparency in the market. According to it, charges imposed on railway operators must reflect the costs associated with using infrastructure while promoting transparency and non-discrimination. Additionally, a structured process for allocating railway infrastructure capacity is mandated to enable efficient use of resources and minimize congestion.

The Directive has significantly influenced national rail systems: by promoting competition and improving service quality across Europe;

by creating a more integrated railway area, it enhanced connectivity within the EU while supporting sustainable transport objectives; by fostering competition, ensuring fair access to infrastructure, and establishing clear regulatory frameworks, it created grounds for a more efficient and user-friendly railway system that meets contemporary transport needs.

In particular promote a competitive and efficient railway sector by ensuring that infrastructure managers set charges based on the costs directly incurred by train services. Below is a detailed description of the provisions concerning these charges.

Charges for using railway infrastructure should reflect the costs that are directly incurred as a result of operating train services. This principle is crucial for ensuring that railway undertakings can access infrastructure in a fair and non-discriminatory manner. These charges should not exceed the actual costs incurred, thereby preventing overcharging and promoting transparency in pricing.

Infrastructure managers are required to calculate direct costs according to specific methodologies outlined in Commission Implementing Regulation (EU) 2015/909 "On the modalities for the calculation of the cost that is directly incurred as a result of operating the train service" [9]. This Regulation provides detailed guidelines on how to determine these costs, including:

Cost Categories: Certain cost categories are excluded from being included in the calculation of infrastructure charges. For instance, costs associated with funds that do not require repayment cannot be factored into the charges.

Modulation of Charges: Average direct unit costs can be adjusted based on various parameters, including vehicle type, operational characteristics, and specific infrastructure features. This allows for a more tailored approach to charging that reflects actual usage and operational realities.

Traffic Diversions: If an infrastructure manager initiates traffic diversions, these should not lead to increased charges for the operators involved. This provision is intended to ensure that operators are not penalized financially for necessary operational changes [9].

Under Directive 2012/34/EU, the calculation of infrastructure charges for the use of railway infrastructure is governed by specific principles and methodologies aimed at ensuring transparency, fairness, and efficiency. These charges should reflect the costs directly incurred as a result of operating train services.

The Directive defines "direct costs" as those costs that are directly incurred from operating a train service. This includes costs associated with train operations on the infrastructure, such

as maintenance and management of the railway network [8].

The costs are generally based on marginal costs, which represent the additional cost incurred when an extra unit of traffic is added to the network. This approach is intended to promote optimal use of infrastructure capacity by encouraging railway undertakings to operate more efficiently.

Infrastructure managers have to set the charges using the infrastructure at the costs directly incurred by the train service. Commission Implementing Regulation (EU) 2015/909 "On the modalities for the calculation of the cost that is directly incurred as a result of operating the train service" provides cost categories that are not eligible [9]. In particular, when infrastructure managers receive funds, they do not have to pay back, they are not allowed to include any costs derived from such payments into their infrastructure charges. Average direct unit costs can be modulated on the basis of vehicle, operational and infrastructure parameters. Traffic diversions at the instigation of the infrastructure manager should not increase charges. Alternatively, to calculating average unit costs and modulating them, infrastructure managers may use cost modeling in accordance with best available international practice. Regulatory bodies may determine and apply a simplified control of direct costs if their values remain below certain thresholds [10].

Member States are required to establish a charging framework that allows infrastructure managers to set charges based on the established principles. This framework should be transparent and non-discriminatory, ensuring that similar services incur equivalent charges. National infrastructure managers must detail their charging methodologies in a network statement, which serves as a public document outlining how charges are calculated and applied.

Regulatory bodies in each EU member state are responsible for monitoring compliance with these charging principles. They can verify whether the infrastructure manager's calculations align with the established methodologies and ensure that charges do not exceed direct costs.

At the same time, the Directive allows for additional charges that reflect the scarcity of capacity during peak times or periods of congestion. This means that if demand exceeds available capacity, infrastructure managers can levy higher charges to manage usage effectively [8].

Infrastructure charges may also be adjusted to account for environmental impacts caused by train operations. This differentiation aims to incentivize operators to reduce negative environmental effects.

Member States may permit mark-ups on base charges if the market can bear them, allowing

infrastructure managers to recover fixed costs while maintaining competitiveness in the rail market.

To ensure compliance with these charging principles, regulatory bodies in each member state have the authority to monitor and oversee the calculation and application of infrastructure charges. They can determine whether simplified controls on direct costs can be applied if those costs remain below certain thresholds. This oversight is essential for maintaining fairness and transparency in the charging process.

The Directive also addresses external costs related to railway operations. It encourages member states to consider these externalities when establishing infrastructure charges. By internalizing external costs, such as environmental impacts, the directive aims to create a more sustainable railway system. Furthermore, it allows for discounts on infrastructure charges when they relate to actual administrative cost savings or when they promote efficient use of infrastructure [8].

Another important aspect of the directive is the provision for noise-differentiated infrastructure charges. These charges are designed to address noise pollution from rail traffic by imposing higher fees on noisier trains while providing incentives for quieter operations. This approach not only aims to mitigate environmental impacts but also encourages railway undertakings to invest in quieter technologies.

The Directive recognizes that capacity allocation incurs costs for infrastructure managers, which must be accounted for in the charging scheme. Railway undertakings are expected to pay for these allocation costs, ensuring that all aspects of infrastructure use are financially sustainable [8].

In general, the Directive establishes a comprehensive framework for levying charges on railway infrastructure usage within the EU. By focusing on direct costs, promoting transparency, and allowing for adjustments based on operational realities, it seeks to create a competitive environment in the railway sector. The inclusion of provisions related to external costs, noise differentiation, and capacity allocation further enhances its effectiveness in promoting sustainable railway operations while ensuring fair access for all operators.

In conclusion, the implementation of EU legislation concerning the regulatory framework for railway freight transport is vital for modern Ukraine. It offers significant opportunities to enhance economic competitiveness through improved market access and increased trade opportunities while promoting sustainable development through environmentally responsible practices.

A critical aspect of aligning with EU standards involves the establishment of independent regulatory bodies to oversee compliance with new regulations. For Ukraine, creating such institutions is essential for ensuring transparency and accountability within the railway sector. These bodies will have the authority to monitor market practices, enforce safety standards, and ensure fair pricing mechanisms. Strengthening regulatory frameworks will enhance public trust in the railway system and encourage greater participation from private operators.

Implementing EU regulations will also necessitate adherence to stringent safety and quality standards in railway operations. This focus on safety is particularly important for Ukraine as it seeks to rebuild its infrastructure and restore public confidence in rail transport. By aligning with EU norms, Ukraine can enhance the reliability of its freight services, which is crucial for both domestic consumers and international partners. Additionally, establishing independent regulatory bodies will strengthen oversight and ensure adherence to safety and quality standards.

As Ukraine continues its journey towards European integration, aligning its railway regulations with EU standards will be essential for building a resilient, efficient, and sustainable transport system that meets contemporary demands and supports long-term economic growth.

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