

**THE TRANSPORT SYSTEM AND THE FREIGHT SYSTEM UNDER THE  
LAWS OF UKRAINE**

**Skoromnyy D.A.,**

*The 4<sup>th</sup> year student of the Department of the  
personnel training for Pension Fund of  
Ukraine National University « Yaroslav the  
Wise Law Academy of Ukraine»*

The theoretical and legal definition of main categories of transport law has a significant importance for the regulation of transportation in general. Such categories as follows: «transportation system», «transport system», «freight system», and theirs structural elements.

First of all it is necessary to define the concepts of « transportation system» and «transport system», to highlight theirs main components and to determine whether these categories are identical.

The first attempts to define these categories were made by soviet scientists; however, the ukrainian scientists of today investigate this issue also.

So, according to V. Andreeva, the transportation system defined as «a coherent organizational structure of enterprises and organizations that are specially engaged in transportation of cargoes and passengers (public transport), as well as independent enterprises and structural subdivisions of enterprises and industrial associations in the current industry, construction and other branches of national economy (departmental transport)» [1, n 10].

G. Savichev considers the unified transportation system as «a set of the different types of public transport that united by: (a) the common national planning; (b)

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homogeneous functions that provided the economy's transportation needs; (c) unified legal regulations» [2, C. 15-16].

A. M. Kondratiev points that the «unified transportation system is a unified commercial complex based on the using of certain types of transport. This complex created for the orderly conduct of the transport and economic activity. Also, this complex consisting of organizations vested with the economic competence, has its own property and capable to act on the basis of commercial principles» [3, p. 237].

N. Lopatina determines the transportation system as «the sum of all types of transport that construct the integrated transportation system that designed to implement coherent (coordinated) transport activities and conduct its management. Transportation system consists of the organizations vested with the economic competence and organization that are in stable economic relations with another organization that acting in economic systems. [1, p. 14].

According to E. Demskiy, a unified transportation system is a set of internally coherent, interrelated, socially homogeneous transport vehicles. These vehicles provide organization and stabilization of implementation of the main tasks of transportation that reflecting its structure [4, p. 53].

N. Vashchenko, A. Kyblyi consider the transportation system as a complex of means of transportation, means of communication, means of control and constructions that provide their work [5, p. 148].

On the economists' opinion, the constituent elements of the unified transportation system are: transport vehicles, buildings and means of mechanization and automatization of transport process. Also the transportation management system and the organization of the total cargo turn-over in the country's economy [1, p 12].

It should be noted that the definition of the transportation system is absent in the ukrainian legislation. The "transportation system" wasn't defined in the soviet

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legislation, although it exists as an economic reality and acts as a complex economic system that resolves the problems of interaction of all transport modes [1, p 26].

During the years of independence lawmakers and scholars have done a lot to handle the legal framework of functioning of the transport system of Ukraine. Particularly, there were adopted the following legal acts, as the Act of Ukraine «On transport» dated November 10, 1994, «On road traffic», dated June 30, 1993, «On pipeline transport» dated May 15, 1996, «On railway transport» dated July 4, 1996, «On automobile transport» dated 5 April 2001, as well as the Statute of Railways dated April 6, 1998 and a number of codes (the Water Code dated June 6, 1995, the Code of trading navigation dated May 23, 1995, Air Code dated May 4, 1993). But there are some legal acts of the USSR still in force. This circumstance indicates a need of systematization and improvement of transport legislation. This is mainly the Statute of the automobile transport dated 1969; the Statute of the inland water transport dated 1955 etc. Abovementioned regulations don't contain any market elements and mechanisms, because they have been based on the principles of the administrative-command economy. The interaction of "soviet" regulations with modern transport legislation is problematic and unjustified.

In spite of all the legislation of independent Ukraine defines the main components of the transportation system. So, according to article 21 of the Act of Ukraine «On transport» the unified transportation system includes:

- 1) public transport (railway, marine, river, automobile and aviation, as well as city transport, including underground);
- 2) industrial railway transport;
- 3) the departmental transport;
- 4) pipeline transport;
- 5) roads.

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Part 2 of the article 21 of the mentioned Law defines the main tasks of the transportation system: «to have an extensive infrastructure for providing a full range of transportation services, including warehousing and technological preparation of cargoes for transportation; to provide foreign economic relations of Ukraine».

Each of abovementioned modes of transport creates a certain subsystem with its own structure that is formed by the following elements:

- enterprises of railway, marine, river, automobile, aviation and urban electrical transport that carry on business activities involved with delivery of services for passengers, baggage, cargo;

- pipeline transport enterprises; enterprises of industrial railway and departmental transport;

- railway, marine, river, air, road transport, tram and trolley ways and ropeways;

- means of transportation (railway rolling stock, motor vehicles and urban electric transport, ships, aircrafts, vehicles enterprises, institutions and organizations);

- passenger stations, railway stations, bus stations, ports, wharves, airports, airfields;

- transport land, protective and restorative plantations, shore-fixing facilities, snow break facilities, roadside tree line etc.;

- industrial, construction enterprises; enterprises of industrial railway transport; ship repair, shipyards factories; repair factories of civil aviation; repair and construction organizations; repair and maintenance depot; factory of rolling stock repair and manufacturing of the spare parts; communication enterprises, locomotive, railcar, track, cargo, passenger construction of energy economy and alarm systems; air traffic control system, navigation facilities; water supply, Sewerage, hydro technical structures etc.;

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- scientific-researching, design organizations, educational institutions, technical schools; training and retraining institutions, institution of further training; qualification-expert institutions;

- enterprises, organizations and institutions of social and cultural sphere (health care institutions, institution of physical culture and sports, preschool institutions); procurement and trade enterprises; other enterprises, institutions and organizations that ensure the operation and development of transport irrespective of their form of ownership [3, p. 52].

In author's opinion, the legal definition of transportation system and its theoretical insights of legal scholars don't reveal the full extent of the essence of the transportation system.

Ukrainian transportation system is a complex and multilevel structure. It consists of a number of interrelated, but, in fact, relatively independent subsystems.

But the effectiveness functioning of ukrainian transportation system, as one of the sectors of the economy, requires certain preconditions.

Firstly, the «labour tools» should exist what is meant here the transport vehicles. Moreover transport vehicles (rolling stock) must meet a set of requirements to technical and technological characteristics that are imposed by the state authorities and local self-government.

Secondly, of course, the communication lines should exist that also meet certain requirements for safety, speed etc.

The third precondition is the participants of the transport relationships. Undoubtedly, the largest group of participants of these relations is the economic entities that are directly involved in the transport services delivery. Such entities should be registered in the order provided for by the current legislation, should have the appropriate permissions (licenses) for carrying out economic activities connected

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with transportation of passengers, baggage, cargo. Among these entities are shipping enterprises and corporate carrier. Besides, bodies of state power and local self-government exercise the authorities with the aim of regulating economic activity in the transportation sphere. However, there are economic entities that cannot be attributed to either the first or the second group. This is, for example, repair enterprises, railway stations, ports, stations of technical service, cargo terminals, the network of filling stations, hotels etc. All these enterprises provide non-transportation services. In author's opinion, they should be attributed to entities that provide complementary transportation services. There is a whole system of schools at different levels that prepares the specialists of the corresponding profile to the transport system. In author's opinion, another group of participants are business entities that prepare specialists of different qualifications for state needs and for the needs of private business.

So, we distinguish the following groups of participants of the transportation relationships:

- business entities that directly carry out economic activities related to the delivery the transportation of passengers, baggage, cargo services ;
- business entities that carry out economic activities related to the delivery of related transport services;
- institutions and organizations that carry out preparation of specialists for the activities connected with transportation;
- state authorities and local government bodies that are authorized to exercise the state regulation and control over traffic in Ukraine.

Due to the deepening of scientific and technical progress, requirements to the state transport component are getting higher. So, the main requirement in the beginning of the transportation development was the physical movement of

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passengers, baggage and cargo in the right direction. And at the present stage the main requirements are the speed of delivery, saving of human resources, reduction in transportations' prices, consumption reduction of fuels and lubricants, increasing of cargo's volumes that could be transported by a single transport document, the possibility to transport by «door to door» system, and To carry out the transportation without overloads from one type of transport to another. Thus, the freight system becomes important.

Generally, the freight system can be defined as the set of the ways of passengers, baggage, and cargo delivery.

The soviet legal theory divided the freight system into following components:

- direct transportation;
- direct combined transportation;
- mixed transportation.

So, these components of the unified transportation system actually are components of the transport system. The concept of «transportation system» is broader than the concept of «transport system». Transportation system includes not only all types of transport (i.e. transport system) it also includes the communications other elements.

The definition of the concept of «transportation system» was investigated by legal scholars, but theirs opinion can be dispose because of following reasons: firstly, mainly all abovementioned definitions are incomplete, and secondly, the majority of them were formed on the basis of the soviet legislation and they're outdated.

Transportation system of Ukraine has a complex branching structure. Transportation system should have an integral nature for intendant and effective functioning. Its definition covers not only transports or separate transport companies. The transportation system should include the following structural elements:

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1) all types of transport - road, railway, water, air, pipeline, electric, underground and other. The list of types of transport, in author's opinion, is not exhaustive. New and new types of transport will arise with the further deepening of scientific and technical progress;

2) participants of the transport relationships that are subject of law that delivery corresponding transport services. Such subjects divided on:

- subjects of transportation relationships that provides transport services (shipping enterprises, corporate carriers);
- subjects of transportation relationships that provides complementary services (repair companies, educational institutions etc.);
- state authorities and local governments bodies that perform management activities in the transport sphere;

3) communication lines - roads, waterways, rails, air corridors;

4) service features - stations, airports, ports, gas stations, service stations, hotels, cafes, camping etc.;

5) the cargo terminals and storage facilities;

6) the control system and communication system on transport;

7) a general information base.

It should be noted that ukrainian transportation system consists of several relatively independent subsystems. Among them:

- a) transport system;
- b) freight system;
- c) the system of educational institutions;
- d) the system of service objects;
- e) the general information system.



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The transport system is a combination of all types of transport that interact and have their infrastructure depending on the type of transport.

Freight system is a set of ways of cargo delivery by various types of transport.

In conclusion, **ukrainian transport system** is the sector of national economy, that has a complex infrastructure with interrelated, but relatively isolated, parts that interact with each other within a particular purpose.

According to the Economy code of Ukraine and the Act «On transport» there is a unified transport system in Ukraine that consists of railway, road, water, air and pipeline transport.

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**СИСТЕМА ТРАНСПОРТУ ТА СИСТЕМА ПЕРЕВЕЗЕНЬ ЗА  
ЗАКОНОДАВСТВОМ УКРАЇНИ**

**Скоромний Д. А.**

У статті розглядаються питання правового регулювання системи перевезень та системи транспорту. Особливу увагу приділено проблемі визначення поняття «транспортна система», «система транспорту», «система перевезень» і запропоновано шляхи їх законодавчого закріплення.

**Ключові слова:** транспорт, система транспорту, система перевезень.

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**СИСТЕМА ТРАНСПОРТА И СИСТЕМА ПЕРЕВОЗОК ПО  
ЗАКОНОДАТЕЛЬСТВУ УКРАИНЫ**

**Скоромный Д. А.**

В статье рассматриваются вопросы правового регулирования системы перевозок и системы транспорта. Особое внимание уделено проблеме определения понятий «транспортная система», «система транспорта», «система перевозок» и предложены пути их законодательного закрепления.

**Ключевые слова:** транспорт, система транспорта, система перевозок.

**SYSTEM OF TRANSPORT AND SYSTEM OF TRANSPORTATIONS ON  
LEGISLATION OF UKRAINE**

**Skoromnyy D. A.**

In the article the questions on legal adjusting of the shuttle system and transportation system are examined. The special attention is given to the problem of definition of such terms as «traffic infrastructure», «transportation system», «shuttle system». Questions on definition of terms by Soviet and contemporary Ukrainian scientists are examined. Particularly researches of V.K.Andreyev, G.P.Savychev, V.M.Kondratyev, N.F.Lopatyn, Ye.F.Demsky, A.Kublyy are analysed. It is observed that there are no definitions of such terms as «traffic infrastructure», «transportation system», «shuttle system» in legislation in effect. Legislation in the field of transport law is examined. It is mentioned that for the effective functioning of the transportation system of Ukraine it is needed special conditions. Several groups of parties of transport relationships were separated. Shuttle system as system of procedures of passenger, luggage and load delivery is observed. Also the structure of traffic infrastructure of Ukraine was examined. It is given that transportation system consists of all kind of transport, parties of transport relationships, traffic connection, service objects, complex of freight terminal and storage facilities, system of control procedure and transport connection, unified information base. The ways of legislative fixing of terms («traffic infrastructure», «transportation system», «shuttle system») was offered. Comparison of transportation system and unified transportation system (term given in the Law of Ukraine «On transport») is made. The elements of substructure of different kind of transport are examined. In conclusion definitions of transportation system and shuttle system are given. Transportation system is complex of all kind of transports that intercommunicate and have their own infrastructure

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depending on what kind of transport it is. Shuttle system is complex of load delivery with the help of different kind of transport. On the base of given definitions of «transportation system», «shuttle system» and comparison of all three terms («traffic infrastructure», «transportation system», «shuttle system») definition of transportation system of Ukraine is made. Transportation system of Ukraine is one of the fields of national economy that has complex infrastructure, component parts of which are tied together, exist separately and intercommunicate within one defined goal.

**Keywords:** transport, system of transport, system of transportations.