



THE LEGISLATION'S HARMONIZATION OF REPUBLIC OF BULGARIA WITH THE EUROPEAN UNION IN THE FIELD OF TRANSPORT

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ABSTRACT: In the conditions of the liberalization of the market of transport and the privatization of the industry of transport, the main mechanism of regulation is used by State remains legislation and its application. During 10 years the Republic of Bulgaria made a lot of efforts in the field of the harmonization of its legislation with the European Union. At the end of 2004, the majority of « Acquis communautaires” (community knowledges) was transposed into the Bulgarian legislative system and it is applied successfully for more than three years. There are, however, a number of questions for which being envisaged by transitional periods or that require modifications. In this article, we will examine the main currents of the normative foundation. These currents can be put together by topics: the access to profession; the access to the market; the access to the services of transport; privatization; technical standards and security.

KEY WORDS: transport, European Union, Law for the transport

INTRODUCTION

In the liberalization's condition of the transport's market and the privatization of the transports' industries, the main mechanism of regulation is used by State remains legislation and its application. During 10 years the Republic of Bulgaria made lots of efforts in the field of the harmonization of its legislation with the European Union. At the end of 2004, the majority of Community acquits was transposed into the Bulgarian legislative system and it is applied successfully for more than three years. There are, however, a number of questions for which being envisaged by transitional periods or that require modifications.

The Bulgarian legislation in field of transport is constituted by a number of laws and regulations which govern the whole implement of the transport and regulate the activities of the transport on the Bulgarian territory. The most important laws are:

- ✚ Merchant shipping code¹ - this Code regulate the social relations in the Republic of Bulgaria, arising in relation to the merchant shipping and the control thereof, the requirements for the Bulgarian ownership in ships, the requirements for the ship's and carriage documents, the rights and duties of the masters and the crews, the contracts for carriage of cargoes, passengers and baggage, the real rights in the ships, the contracts for rental of ships, the contracts for insurance of ships and loads, the average of ships, the salvage on sea and rivers.
- ✚ Law for the civil aviation² - this law provide the public relations, connected with the civil aviation in the Republic of Bulgaria and with ensuring its safety
- ✚ Law for the road transport³ - This law provide the conditions and the order for the public internal and international transport of passengers and cargo by vehicles, carried out by Bulgarian or foreign carriers; the transport for own account; the control

¹ Prom. SG. 55/14 Jul. 1970, prom. SG. 57/17 Jul. 1970, corr. SG 58/24 Jul. 1970, last amend. SG 108/29 Dec. 2006

² Prom. SG. 94/1 Dec. 1972, last amend. SG. 41/22 May 2007

³ Prom. SG. 82/17 Sep. 1999, last amend. SG. 80/5 Oct. 2007

at implementing of the transport; the special rules of the contracts for transport of passengers and cargo.

- ✚ Law for the sea waters, the internal water ways and the ports of the Republic of Bulgaria⁴ - this law provide the legal regime of the sea waters, the internal water ways and the ports of the Republic of Bulgaria
- ✚ Law for the roads⁵- this law settles the public relations connected with the ownership, the using, the management, keeping, construction, repair, maintenance and financing of the roads in the Republic of Bulgaria
- ✚ Law for the railway transport⁶- This Law regulates the conditions and order of construction, maintenance, support, development and utilisation of the railway infrastructure, the requirements for access to it, the fundamental rules for train traffic as well as the interrelations between carriers and clients, when providing transportation services in relation to the international contracts and agreements to which Bulgaria is a contracting party.

The main aspects of these laws can be put together by topics: the access to profession; the access to the market; the access to the services of transport; privatization; technical standards, security and safety.

I. The access to profession

The principle of free services' movement, put down by Community right, necessities a rules' harmonization for the access to the profession of truck driver. Requirements of this harmonization at European level were transposed into the Bulgarian right.

The profession's access for the road haulage contractor and rail carrier is opened for all natural or moral persons having a legal status. This access is subordinated to a certain number of criteria: professional competence; financial stability; the absence of police record. In the next years there will not be notable changes in this domain. However is envisaged a strengthening of control. Concerning financial stability a transitional periods is envisaged for the internal road transport, represented in the Figure 1 (Conditions of financial stability for the road haulage contractor in euro). For the international road transport the condition of financial stability came into force before the membership of Bulgaria in the European Union in 2007.

Table 1. Conditions of financial stability for the road haulage contractors in euros

Year	2003	2004	2005	2006	2007	2008	2009	2010
The first automobile	2700 €	3600 €	4500 €	5850 €	6750 €	7650 €	8550 €	9000 €
The automobile after the first	1500 €	2000 €	2500 €	3250 €	3750 €	4250 €	4750 €	5000 €

Table 2: The access to the market of the Bulgarian carriers.

Type of transport	Carriers	Conditions of the access to the market
Road transport	-Road haulier by bus 1654 (11710 bus) -Road haulier of the goods : 2470 (1080 lorry) -Taxi : 3733 (22564 automobiles) -International road haulier : 4848	- the market of road transport of the goods is completely liberalized. - for persons' transport there are two outline: competition regulated and free competition
Rail Transport	-BDZ EAD -Bulmarket DM Ltd. -BZK AD	- missing of private rail carriers - through lack of interest
Maritime and fluvial transport	-Navigation Maritime Bulgare AD -Bulgarian Maritime Flote EAD	- missing of the private shipping company
Air transport	- Bulgaria Air - Hemus Air - Viadjo Air - Bulgaria Air Charter OOD - Air Via - BH Air OOD	- 3 airline companies for regular fly -3 airline companies for charter

⁴ Prom. SG. 12/11 Feb. 2000, last amend. SG. 41/22 May 2007

⁵ Prom. SG. 26/29 Mar. 2000, last amend. SG. 59/20 Jul. 2007

⁶ Prom. SG. 97/ 28 Nov. 2000, last amend. SG. 108/29 Dec. 2006

To the membership of Bulgaria in the European Union, the access to the profession for air carrier concerned only the skills of the personnel. In new economic conditions the accent is put on the access to profession at the level of societies. The air area is very dynamic at European and worldwide level, for this reason in next years the normative foundation is going to be periodically changed and supplemented.

II. The access to the market and the access to the services of transport

The access to the market and to the transport's services is a complex process, in which normative regulation plays a title role. To this sense, between 2007 - 2010, main question remain that of the competitive capacity of the Bulgarian carriers (Figure 2: The access to the market of the Bulgarian carriers).

III. Privatization

Since 1989 the process of the privatization became very intensive. The government agency responsible for this process is the Privatization Agency⁷. The significant progress has been made in this field. The road transport industry has been almost entirely privatized and, with the exception of axle load controls, it operates under a satisfactory regulatory framework with strong competition.

Similarly, the main need in the air transport sector is to introduce adequate arrangements to concession airport activities and thus attracting private financing of infrastructure investments. The Government has initiated the process for the award of concession for the two major seaside airports. The privatization of the national carrier - Bulgaria Air was done on 04/01/2007. This privatization was necessary for the modernization of the Company and his competitive capacity⁸

In the port and shipping the Government has established a state enterprise - Port Management Company to be responsible for the ports maintenance. It has also initiated the process for the award of concessions for parts of the sea and river ports. Strategies for the privatization of the River fleets were submitted to Parliament. The privatization of the River fleet has started through selling a minority package of the company through the Bulgarian Stock Exchange. In 2007 the privatization strategy "Navigation Maritime Bulgare" EAD was accepted by the Parliament. The privatization of this shipping company is necessary with a view to increase its competitiveness⁹. That requires making considerable investments for improving the state of long term assets, improving the Company's management and attracting reliable shippers. The constantly increasing requirements to marine fleets worldwide, the cyclic nature of freight market and the delay of the privatization procedure would lead to changing for the worse of the Company's financial results, decreasing its competitiveness and poor prospects for the Bulgarian marine fleet.

There remain efforts to be notably made in transport by rail. The principal rail carrier "BDZ" EAD is 100% ownership of the State.

IV. Technical standards

The principal challenge for Bulgaria in the transport sector is the adoption of the technical standards for operational compatibility. It is a very long process (15-20 years). The operational compatibility requires an important infrastructure, a modernization of the material foundation and professional training.

V. Security and safety

The legal framework for road safety is the Law of the roads. It is one of the priorities for the Ministry of Transport. But as in the rest of the European Union and the world, road accidents are responsible for many deaths and serious injuries each year in Bulgaria. In an

⁷ <http://www.priv.government.bg>

⁸ Privatization strategy for "Bulgaria Air" EAD; Decision 3069-P; Privatization Agency

⁹ Privatization strategy for " Navigation Maritime Bulgare" EAD; Ministry of Transport; 2007

effort to curb this trend, a strategic alliance has been formed between the Bulgarian government, the Dutch programme Partners for Roads and the World Bank to jointly contribute to further the development and incorporation of safe road design and to facilitate the transfer of knowledge in Bulgaria. The intention is that, via a series of training courses, representatives from the public sector bodies involved in road safety will learn to observe a road from a road safety perspective. The outputs from the project are expected to be specific short-term recommendations that will both prevent accidents and increase the capacity of the road.

As regards the rail transport a debate about the safety standards was provoked after the worst railway incident in Bulgaria since 1992, on 28/02/2008. Transport Minister Petar Mutavchiev promised to take dispositions for the rail safety.

The principal Administration responsible for the airport security and safety is Civil Aviation Administration (CAA)¹⁰. This is a general directorate in the Ministry of Transport responsible for: creating norms, rules and regulations; enforcing national security, training and quality control programs; performing certification procedures and state security oversight procedures and ensuring the level of the security standards at the airports. The legal framework for CAA safety and security activities is based on: Law for the civil aviation; Ordinance 2320/14 February 2006 and EC regulations. The other institutions and entities involved in aviation safety and security decision making and project implementation are Ministry of Interior National Service Border Police, individual airport authorities, air operators, State Agency Customs, private security industry (although very limited at present) and the aviation security training centres. There is no single source for financing airport security. It is a cumulative source originating from three government taxes – landing, parking and passenger.

There is no single body responsible for maritime and ports security. Two administrations are equally involved in implementation and coordination of security regulations and requirements: Bulgarian ports authority (BPA)¹¹ and Maritime administration (MA)¹². Both are executive agencies in the Ministry of Transport and their functions related to maritime and ports security are: to create norms, rules and regulations; to enforce these norms and regulations; to perform the port (BPA) and ship (MA) certification and state security oversight procedures; to ensure implementation of the security standards at the ports and ships. The legal framework for BPA and MA safety and security activities is based on: Law for the sea waters, the internal water ways and the ports of the Republic of Bulgaria; Ordinance 53 on ports and Maritime security; EC regulation; ISPS code¹³. Similar to the airport safety and security equipment, the maritime security possible procurement has no single source for money allocation and project financing (example maritime security taxes). Security equipment purchases are financed by a not strictly specified percentage from the government taxes at ports.

CONCLUSION

On the last 10 years the Republic of Bulgaria and his Government made a lot of efforts in the field of the harmonization of its legislation with the European Union. Today the most important question remains the control of the application of this normative foundation.

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¹⁰ www.caa.bg

¹¹ www.port.bg

¹² www.marad.bg

¹³ The International Ship and Port Facility Security Code (ISPS Code)