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**INFLUENCE OF THE INSTITUTIONAL FRAMEWORK ON THE OPPORTUNITIES
FOR DEVELOPMENT OF THE RAILWAY TRANSPORT IN BULGARIA
IN THE CONTEXT OF THE EUROPEAN RAILWAY SYSTEM**

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Abstract

The railway transport is of a great importance for the economic and social development of a country. The railway transport is extremely important for the economic and social development of a country. This fully applies to a country such as the Republic of Bulgaria, moreover, that it is a part of the European space and, depending on the policy pursued by the country and the sustainability of its institutions in this direction, it can benefit from the forthcoming liberalization of the railway transport in the European Union, as well as to lose from it. In order the development of the Bulgarian railway transport to have a sustainable growth and to be economically and socially efficient, the State should create sustainable institutions which to provide security and reduce the transaction costs for the railway carriers.

Keywords

Bulgarian railway transport – Sustainable growth – Railway undertakers – European railway system

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Review of the literature and the methodology

The purpose of this investigation is to analyze the prospects for the development of the railway transport, using the methodology of the Institutional Economy, as this concept is understood by Douglas North¹. The problem of the strategic development of the Bulgarian railway is not new. It dates back to the beginning of the construction of the Bulgarian railway and has developed over time, which shows the importance of strategic planning and the opportunity it provides for the development of the Bulgarian railway transport and its importance for the political and economic orientation of the country². From the presented titles it is evident, that the development of the railway in Bulgaria has always been politically oriented, depending on the current situation. Today it is also such a moment of development, when the railway transport in Bulgaria should be strategically oriented and become an important part of the European railway system. The development of Bulgarian railways should also be linked to the transport corridors in the Balkans. The country should not allow itself to be bypassed through its neighboring territories and provide the transport corridors, both north-south and east-west. At the same time, it should provide quality transport services that are competitive with other railway undertakers in the European Union. The first method of the present study is the deductive analysis of the institutional framework, emphasizing the normative character of the institutions, which has been enshrined in the European and Bulgarian legislation. This reveals the tendency of sustainability of the formal institutional relations. The second part of the text uses inductive institutional analysis to highlight the informal resilience of institutions. Legal analysis of the legal framework is also used.

Institutional framework

The railway transport in the Republic of Bulgaria is carried out by the Ministry of Transport, Information Technologies and Communications according to art. 5 of the Railway Transport Act /RTA/, which is the principal of the Specialized Unit for Investigation of Accidents and Incidents in Railway Transport (SUIAIRT) and the Executive Agency "RAILWAY ADMINISTRATION" (EA "RA")³.

The Specialized Unit for Investigation of Accidents and Incidents in the Railway Transport was established in 2006 by Decree № 250 of 25 November 2005 of the Council of Ministers of the Republic of Bulgaria within the structure of the Ministry of Transport, Information Technology and Communications, in connection with the requirements of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on the safety in the Community's rail transport as a part of the pre-accession commitments of the Republic of Bulgaria to the European Union.

Its functions and activities are regulated in the Railway Transport Act (RTA), in force since 14.11.2006, with the introduction of a new Chapter - Six "b", Section II, Art. 115i - 115n⁴.

¹ D. North y D. E. Lance, Institutional Change and American Economic Growth (Cambridge: University Press, 1971).

² I. Tsanov, L., Heberle, C. Frank. Glavni uslovia i sgovori za otdavane iztsialo napravata na zhepe liniite v kniazhestvo Bulgaria. (Sofia, Narodna pechatnitsa Bogdan Proshek, 1885)

³ Executive Agency "Railway Administration", MTITC, Transport. <https://www.mtitc.government.bg/bg/category/142>, Accessed on 18. 06.2020.

⁴ "Zakon za zhelezoputniya transport", Six "b", Section II, Art. 115i - 115n Durzhaven vestnik, SG., Vol. 97, 28.11.2000, Chapter - acting since 1.01.2002.

The specialized unit carries out its activity in accordance with the current European and national legislation, and the powers assigned to it, following by the RTA are:

1. Carries out an independent state investigation of serious railway accidents, accidents and incidents arising on the national railway infrastructure. According to art. 115k of the RTA, the specialized unit investigates:

(a) serious accidents, accidents and incidents in the railway transport;
(b) at its discretion, it seizes the investigation of accidents and incidents, including those which, in different circumstances, could have led to the consequences of serious railway accidents;

2. Manages the commissions for investigation of serious railway accidents, accidents and incidents on the territory of the Republic of Bulgaria and in the area of the border crossings;

3. When investigating railway accidents, it analyzes the actions of the physical and legal persons in the field of the railway transport and the functioning of the rolling railway stock and the sites and facilities of the railway infrastructure related to the railway accident.

4. It maintains a system for mandatory and voluntary reporting of accidents and incidents in the railway transport;

5. It organizes and technically controls the investigation of railway accidents and incidents;

6. It exercises control over the railway companies and enterprises in the investigation of railway accidents and incidents;

7. It maintains an information database and keeps an archive of the investigated railway accidents and incidents;

8. It participates in working groups and commissions for preparation and amendment of normative acts, related to the safety of the railway transport and the investigation.

In its organization and decision-making, the specialized unit shall be independent of the Executive Agency "Railway Administration", the manager of the railway infrastructure, the railway undertakers, as well as of any other person whose interests could be in conflict with the functions of the unit. It is managed by a state inspector - head of unit, engineer in organization and management of railway transport.

Each investigation conducted by SUIAIRT ends with a final report prepared by the head of the unit, who sends it to the interested parties in the accident and publishes it on the website of SUIAIRT. Recommendations to improve safety may be made during investigations as well as in final reports. The addressees of the given recommendations report on their implementation to the head of SUIAIRT in MTITC. The investigation, conducted by the specialized unit at MTITC, aims to prevent the occurrence of other accidents and incidents and improve safety in railway transport without seeking fault and liability⁵.

In the latest amendments to the RU, made in the Transitional and Final Provisions to the Law and promulgated in the State Gazette, issue no. 62 of 2019, and in force since August 6, 2019, Art. § 8 it is envisaged the consolidation of the investigative bodies in transport, by creating a National Board for investigation of accidents in the air, water and

⁵ Specializirano zveno za razsledvane naproizshestiya i incidenti v zhelezoputniya-transport, <https://www.mtitc.government.bg/bg/category/180/> MTITC, accessed on 18.06.2020.

railway transport, which is to be a legal entity under Art. 60, parag. 1 of the Administration Act. The Board was established by Decree № 6 of 22 January 2020 on the establishment of a National Board for Investigation of Accidents in the Air, Water and Railway Transport and for the adoption of Rules of the Procedure, Structure and Organization of the National Board for Investigation of Air, Water and Railway transport accidents, while its functions concerning the railway transport are preserved⁶. Thus, an independent body was established in the Republic of Bulgaria to investigate traffic accidents, including those of the Railway Transport.

The main body for regulation of the railway transport in the Republic of Bulgaria is the National Agency "Railway Administration", whose main functions are: to perform control over the provision of access to the railway infrastructure without discrimination; to check the equality in providing access to the railway infrastructure along the corridors in accordance with Art. 20 of Regulation (EU) № 913/2010; to prepare a proposal to the Executive Director for setting the priority in the allocation of the capacity of the railway infrastructure in case of disasters; to control and check complaints from railway undertakers for unfair treatment and discrimination by the railway infrastructure manager in relation to the provision of the capacity, the amount and the structure of infrastructure charges and the network reference document and to prepare a reasoned decision of the Executive Director on the complaints; to verify the fulfillment of the requirements for issuance and revision of a license for railway transportation of passengers and / or goods and prepare a report to the Executive Director; to prepare proposals for coordination of the projects for crossing the railway lines from the railway infrastructure with the roads from the national road network, with the local roads, streets and pipelines, cable and air high-voltage and low-voltage lines and others, as well as the projects for connecting the railway lines from the railway infrastructure; to carry out inspections of the manager of the railway infrastructure and of the railway undertakers and in case of established violations to propose to the executive director to issue a prescription, an act for establishing an administrative violation or a decision; systematizes, processes and stores statistical data on the activity of the railway infrastructure manager and the carriers; to participates in commissions for consideration of proposals received by the agency for changes in the national transport scheme; to participate in the work of international organizations, international institutions, meetings and working groups in the field of railway transport, including regulating the railway transport market; to carry out the activity of registration of the persons who organize training courses for consultants on the safety of the transport of dangerous goods and proposes to the Executive Director to approve the curriculum related to the training of the candidates; to develop and to propose to the Executive Director drafts of by-laws in the field of the railway transport; to assist the Executive Director in carrying out his duties in connection with the organization and coordination of the European Union affairs; to participate in the development of international railway agreements to which the Republic of Bulgaria is a party; to propose to the Executive Director, in accordance with his powers, the imposition of administrative penalties for established violations in connection with the access and use of the railway infrastructure; to participate in the maintenance of registers and/or information files, according to the normative requirements⁷.

⁶ Postanovlenie № 6, Ministerski suvet, (January 22, 2020), pag. 4

<https://dv.parliament.bg/DVWeb/showMaterialDV.jsp>; Accessed on 18.06.2020.

⁷ Executive agency „Railway administration“, <http://www.iaja.government.bg/IAJI/> Accessed on 18.06.2020.

The entire management of the railway transport is entrusted to the Executive Agency "RA". The development of the railway transport in Bulgaria, the contacts with the railway network of the European Union and those of third countries directly depend on its actions. The possibility to build a railway network in the country and the connection with the European and third countries. These functions are especially important in view of the future liberalization of railway transport in the European Union, of which the country is a part, as well as the connection with the railway networks of third countries, according to Art. 6 - 8a of the RTA.

In order for the state to exercise its powers in the field of the railway infrastructure and transportation, there are two state-owned enterprises, the National Railway Infrastructure Company and BDZ Holding AD⁸, as well as private carriers, which are mainly engaged in freight transport and are subject to licensing regime⁹.

Opportunities for sustainable development

The Bulgarian railways are sick and no financial "medicines" will cure them: The way out is professional management, sustainable development policy, consistency and continuity based on a long-term development policy developed and adopted.

The money from the concession of Sofia Airport, the unrealistic remedial measures and the uncontrolled spending of funds from the budget only distract attention from the most important step - the direction and the policy for sustainable development.

A long-term consistent policy for development and management is needed, for sustainable growth of transport and own revenues, for quality railway service for the benefit of the civil society and the Bulgarian economy. The management "of a piece" and investments mainly in a limited part of the railway network or in poorly justified investments for new trains, without long-term goals for development of the technology and the organization of the railway service at national and regional level, does not give results. The railway service is not only an infrastructure, but a technology, organization and management of the whole railway system by carriers and users of the railway service. That is why a nationwide policy is needed to unite the investment policy for the development of all elements of the service - infrastructural, technological, organizational and managerial. The railways are a national transport system for the transport of passengers and goods. This determines the need for a common integrated approach to their development.

The challenges facing the Bulgarian railways are huge responsibility for all institutions - for the transport, for the Bulgarian economy, for the civil society, for the carriers, for the state. They should be the subject of a professional debate on the direction of their development, in terms of:

- Their competitiveness in the market of transport services, such as more economical, more ecological and safer transport.
- Investments in technological capacity through new technologies;
- Financial stability and long-term viability through the transport growth and the own revenues.

⁸ 130 godini Bulgarski Durzhavni zheleznitsi, <https://holding.bdz.bg/bg/> Accessed on 18. 02. 2020.

⁹ DP Natsionalna kompania „Zhelezoputna infrastruktura“, <http://www.iaja.government.bg/IAJI/wwwFWRAEA.nsf/jpcarter.htm>. Accessed on 18. 02. 2020.

- Overcoming the management crisis and training key executives for the railways.
- Investment policy in quality, sustainable growth and market development.

Conclusions

If we do not change the policy for the railways in the next 1-2 years, they will be left without transportation. Private railway carriers (including foreign ones), road and bus carriers take away the transport and revenues of the state railways. The introduction of the tolls from this year /2020/ is an opportunity for the railways to take advantage of their advantages over road transport, which have been lacking in recent years. At this stage, however, no concrete actions in this direction are seen in either BDZ or NRIC. The transit carriers are investing in new rolling stock, including those produced in the Bulgarian railway plants, which shows the reluctance of the state-owned railway carrier to develop the freight railway service. The public procurement for the sale of available wagons is preferred to the growth of traffic. The attitude towards own tangible assets (not to be repaired and modernized) led to a loss of technological capacity in BDZ, to a decrease in freight and passenger transport, to a loss of own revenues. BDZ does not have the functions of a trade company for transport service.

The state railways are inactive, and this hinders the implementation of a more efficient transport policy by the state, which will benefit the Bulgarian economy. The inaction and the inadequate, unprofessional decisions are also to the detriment of the civil society, which cannot take advantage of transit traffic through Bulgaria to generate more revenue from transport carriers. Obviously, the urgent operational decisions aimed at more effective participation of Bulgarian transport companies in the market of transport services are left in the background within the geopolitical projects for the transport connectivity.

The problems in the field of rail freight are also related to:

Lack of market policy and behavior; insufficient technological capacity; lack of technological connection with industrial zones and users of railway service; inefficient technology and organization of the freight service; lack of regional structures for communication with railway service users; serious lag in the field of innovation for new technologies, especially after the introduction of tolls on highways.

In the field of passenger transport, the problems are in:

- the shortage of trains;
- poor organization and quality of service;
- the lack of a complete system for technological connectivity and accessibility to the transport scheme (train - station - direction);
- the shortage of wagons and trains as a result of lagging behind in the modernization of existing trains and wagons;
- non-compliance with the train schedule and the poor quality of passenger service;
- the inconsistency between BDZ and NRIC regarding the interruptions of the traffic on the railway infrastructure.

The delivery of new trains must not cancel or delay the urgent need to modernize existing coaches and trains. This also applies to freight transport. These measures should be seen as a necessary condition for the growth of transport and own revenues in the short term.

The problem of the quality of the service in the BRT /BDZ/ is not a recent one. According to an article on the OFFNEWS website, the Bulgarians are most dissatisfied with the rail transport in the entire European Union. This is also shown by a study by the European Commission presented in Brussels. According to the survey, residents of countries such as Lithuania, Luxembourg and Austria are most satisfied with trains, and the most dissatisfied with the railway service are the people in Bulgaria, Croatia and Romania. However, the situation must change with the adoption of new railway rules, which will enter into force by 2020¹⁰.

Despite the thesis of the European Commission that it identifies the railway transport as a priority, in Bulgaria the problems with the accuracy of trains, the equipment, the cleanliness and the quality of the service remain in the background, and priority is given to the highways. The fact that rail transport is many times more ecological than the air transport is not taken into account. Data from the National Statistical Institute show that for the past 18 years passengers carried by rails have decreased more than twice. In the year 2000 they were 50 million, in 2018 they were only 21.3 million. Today the wagons are many times less - the trains to the Black Sea region used to have 15-16 wagons till 1992, now they have 5-6 wagons. Therefore, despite the decline of the number of the passengers, the work performed did not decrease proportionally - in 2005, with 33.7 million passengers transported, the indicator of train kilometers (total distance traveled by trains) was 21.8 million. In 2018, the number of train kilometers was 19.9 million. The inefficiency of the carrier can be seen - with a decrease of 37% of passengers, the "work" has decreased by only 9%¹¹. The passenger cars are obsolete, with over 40 years of age of 60-70 percent of the staff, 187 of a total of 259 freight cars are in isolation, which is nearly 52 percent, due to planned but not completed repairs. According to Engineer Yassen Ishev, chairman of the Scientific and Technical Union of Transport, despite the reorganization and restructuring of BDZ since 2002, things have not changed, and the reason is the absence of the state from this process¹². With their overall activity, the companies in the sector must strive to create conditions for the railway users not only in Bulgaria, in full unison with the pan-European policy, which will contribute to the practical construction of the Single European Railway Area (as defined in Directive 2012 / 34). Only with the joint efforts of all factors in the sector there will be achieved improvement of the overall condition and sustainability of the railway sector in the Republic of Bulgaria.

The integration of the Bulgarian transport system, and in particular of the railways in the European one, has several positive dimensions - improvement and development of purely physical / infrastructural connections and achieving interoperability, attracting international traffic through the country and increasing the competitiveness of Bulgarian transport companies. The integration of the country's transport network is a necessary condition for achieving full (political, economic and social) cohesion of Bulgaria within an enlarged Europe and is in full compliance with the EU policy to overcome the infrastructural imbalance between the central and peripheral regions of the Community.

¹⁰ "Kachestvoto na uslugite na BDZ e nai-loshoto v tseliya ES", OFFNews, <https://offnews.bg/ikonomika/09.12.2016>.

¹¹ E. Petrov, "Online systemata za prodazhba na bileti edva li shte reshi hronichnite problemi na durzhavnia prevozvach", „Ikonomist” <https://ikonomist.bg/100502/Bglobal>, (21.10.2019)

¹² Experti I ucheni prizovavat za izgotviane na avariyna programa za spsyavane na BDZ, <https://dnes.dir.bg/obshtestvo/eksperti-i-ucheni-prizovaha-za-avariyna-programa-za-spsyavane-na-zhp-uslugata-v-balgariya,16.12.2019>

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