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ABOUT REFORM OF «UKRAINIAN RAILWAYS»

Summary

This article critically examines the reform of rail transport, and objectively analyzes the reform program. We considered the stages of the reform and the reasons for and consequences of deviations from the "Ukrainian railways" reform program.

Key words: reform of «Ukrainian railways», State Program of the railway reform, privatization.

Formulation of the problem. For already more than 15 years raises the question of reform "UZ" which is both its supporters and opponents. Despite the fact that he 23.02.2012. The Law of Ukraine "On peculiarities of creation of the state railway company public transportation" and a series of regulations to implement them can not but create the specified term of the Company were disrupted.

Analysis of recent research and publications. Scope of the reform "UZ" studied writers like S.Androschuk, O.Bystrytska, S.Hrechishyn, N.Sheluhin. Unfortunately, the authors of the article mentioned only superficially touched some problems in this field, and therefore remain many unresolved issues both theoretical and practical levels.

The purpose of this study is to solve the problem of inhibition reform "UZ" identify the main reasons for blocking the reform process and ways to overcome legal crisis in the field of rail transportation.

Presenting main material. Fundamentals of railway reform laid in the Concept of state program for railway reform, approved by the Cabinet of Ministers of Ukraine of 27 December 2006 № 651-p. However, reform of rail transport at the time did not

provide for the formation of "Ukrzaliznytsia" societies and private companies that have fleet of passenger and freight cars. On the contrary, the main prerequisite for an effective railway reform was to preserve state-owned railways.

Later railway reform was on the basis of the European Parliament and of the Council (which were approved by the Cabinet of Ministers of Ukraine of 11.06.2008 p. № 821-p and p from 15.04.2009. № 408-p) and the recommendations of the World Bank, European Bank for Reconstruction and Development and other donors and private investors and was under constant monitoring of these organizations. On approval of the recommendations in the Program of Economic Reforms for 2010-2014. "Prosperous Society, Competitive Economy, Effective State" from 02.06.2010 g., It was stated that "the purpose of the reform is to improve the quality of existing and construction of new exercise about of objects of transport infrastructure to meet the needs of economic development and improve quality of life. " In particular, it was found that the necessary steps to improve management in the railway sector are:

- Functional separation of Ukrzaliznytsia state assets, creation on their base of joint stock companies;
- Improving corporate governance;
- Sale of non-core assets and subsequent partial or complete privatization of segments that are not natural monopolies;
- Ensuring non-discriminatory access to the private operators of infrastructure networks.

Resolution of the Cabinet of Ministers of Ukraine of 16.12.2009 №1390 approved by the State Program of reforming the railway transport in the years 2010-2019, designed for 10 years, which is planned to carry out in three stages:

- Phase I (2010-2012): Improvement of the regulatory framework necessary for reforming the sector; the formation of a public company rail transport (hereinafter - the Company); introduction of a mechanism of financial flows by type of economic activity;

- Phase II (2013-2015): Forming a vertically integrated industrial-technological system of railways, structured by activity, with the introduction of automated system of accounting and management; creating organizational and legal conditions for the private operator of passenger transportation companies; formation in suburban and regional passenger transport business partnerships, corporate rights to which belong to local executive authorities, associations and other entities; optimization of the organizational structure of railway transport;

- Stage III (2016-2019): The elimination of cross-subsidization of passenger transportation by truck through the introduction of a mechanism of financial support for passenger transport; the formation of a business partnership in the field of passenger transport in the distant and local traffic, on corporate rights which belong to the Company; increasing the number of private companies that have fleet of passenger cars; the formation of local railways that have infrastructure and rolling stock, based on sub-rail transport, malodiyalnyh and narrow-gauge stations; developing a network of logistics centers, warehouses and distribution terminals.

In the course of implementation of the program amended the laws on transport and privatization. So, in preparation for the restructuring of Ukrzaliznytsia, the legislator Law of Ukraine 13.01.2012 № 4336-VI amending the Law of Ukraine "On State Property Privatization" and excludes subparagraph d) ch. 2, Art. 5 of "property complexes of enterprises engaged in primary production of railway equipment (locomotives, diesel locomotives, diesel trains, wagons)."

The Law of Ukraine "On peculiarities of creation of the state railway company public transportation" of 23.02.2012 № 4442-VI (hereinafter - the Law of corporatization "Ukrzaliznytsya ") makes" Ukrzaliznytsia "in the market-oriented economic enterprise by combining its assets and business to make a profit. During the year, planned on the basis of the State Railway Administration of Ukraine, as well as enterprises, institutions and organizations of railway transport, including railways, healthcare facilities, educational institutions belonging to the central executive body to form and realize State policy in the transport sector, and higher education of I accreditation level, which train specialists for railway transport, railway PAT form of

public transport. These enterprises, institutions and organizations of railway transport should be reorganized by merger and to become members of the Society to form a single legal entity with 100% shares in state-owned fixed and founder is the state represented by the Cabinet of Ministers of Ukraine.

At the same time changes the legislator paragraph 8 paragraph d) ch. 2, Art. 5 of the Law of Ukraine "On State Property Privatization", and states that can not be privatized "RAILWAY LINES public and posted on their technological structures, transmission equipment directly used for the process of transport, namely railway stations and tracks public , traction substations, contact network and other devices technological power, alarm systems, centralization, blocking and train control, objects and property, designed specifically for implementation of remediation activities. " This property is owned by the state and assigned to the Company the right of business. But mainly assets related to the functions of the state to ensure the safety and regulation of traffic, do not give quick profits using and require large investments.

It is legally privatized education objects whose property included in the authorized capital of a public company rail public transport (paragraph 10 of point b) ch. 2, Art. 5 of the Law of Ukraine "On State Property Privatization").

Simultaneously, the said law was excluded from the list of state property that can not be privatized, "property complexes of enterprises of railway transport infrastructure on the territory of Ukraine," a total of 29 objects, including all six railways of Ukraine, state design and survey Institute of Railway transport carriage repair plants and others.

June 25, 2014 was accepted by the Cabinet of Ministers of Ukraine №200 «On Establishment of Joint Stock Company Ukrainian Railways», which regulates the procedure for the establishment of the Company. According to p. 5 of said resolution of the Ministry of Infrastructure for six months was obliged to take measures to stop UZ and companies referred to in the Annex.

It should be noted that the corporatization of state enterprises - the initial stage of their preparation for full or partial privatization. Almost all private companies that do business on the basis of state assets to the Soviet economy, have passed this way. It

is likely that the railway companies and investors, the German railway company Deutsche Bahn, Polish PKP, SNCF French and American investment company Railroad Development Corporation (former Estonian railway operator) - would be interested to invest in Ukrainian railways [1].

Leaders 'UZ' and trade unions rightly claim today impossibility privatization JSC "Ukrzaliznytsia". However, after the reform, the company will be completely different structure, which will have only the infrastructure, signaling systems, telecommunications, railway stations, and other engineering structures, fundamentally unprofitable but necessary targets, the maintenance of which requires significant capital investment.

Of course, becoming a model railway on the best international practices is now vital. However, this should be done not through privatization unified transport system, resulting in loss of normal functioning of all branches of social production, the complete collapse of social and economic development and the final destruction of the state defense, international cooperation Ukraine.

World experience knows various examples of reforms rail transport. For example, in Colombia, in the neo-liberal reforms the national rail network was just destroyed. In the UK, the privatization of "British Rail" has led to the complete collapse of infrastructure and the consequent destruction of trains. Now the British government is forced to invest huge public funds to support the industry and keeping unemployment. In Estonia, an American investor in the pursuit of profit has not fulfilled investment obligations and actually pulled the railway network [2]. So a few years had to nationalize the railway, and the government paid the amount almost three times and was broken back infrastructure. In the meantime, German, French, Czech, Spanish railways, which are state-owned, is a model of efficiency.

Conclusions. Deep analysis shows that reform "UZ" currently do not designed to meet the transportation needs of the state and society or improve the living standards of railway workers, and aims at the gradual collapse of the structure of the railway.

Pursue reform "UZ" should, but after treatment multilateral concept of discussion in labor collectives industry, scientific and technological circles, given the

positive and negative experiences railway reform in all post-Soviet and post-socialist countries.

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List of references

1. Піттман Р. Реорганізація української залізниці [Електронний ресурс] / Рассел Піттман // Економ. правда. – 2015. – 15 січ. – Режим доступу: <http://www.epravda.com.ua/columns/2015/01/15/521686/>
2. Гричишин С. Дороги железные. Реформы убийственные [Електронний ресурс]. – Режим доступу: <http://liva.com.ua/railway-ukraine.html>