

Issues of Legal Regulation of Automobile Passenger Transportation in Irkutsk Region

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Abstract—The subject of the study is legal norms of the federal, regional and municipal legislation governing the road transportation of passengers. The purpose is to analyze and generalize the practice of transportation contracts concluded in Irkutsk region, the carrier status, the practice of resolving disputes on requirements for including information on the applicant in the register of municipal routes for regular transportation of passengers and baggage by road and city ground electric types of transport. The methodological basis is the method of studying reality in its connection and interaction with substantive and arbitration procedural laws. Along with general scientific methods, private scientific methods are used: descriptive, technical and legal analysis, comparative legal analysis. New knowledge about the nature of a transport contract (the agreement for transporting passengers by road, the procedure for concluding an agreement and issuing documents for the permit route) was obtained.

Keywords—*transportation contract, transport law, passenger transportation, baggage, automobile transport, regulated tariff, unregulated tariff, carrier status.*

I. INTRODUCTION

The problems of urban public passenger transportation are essential criteria for assessing public administration in conjunction with public transport services which should decrease living standards of the urban population.

The subject of this article is problems of road passenger transportation in the Russian Federation on the example of Irkutsk.

II. MATERIALS AND METHODS

Currently, these legal relations are regulated by the Federal Law “On Organization of Regular Transportation of Passengers and Baggage by Road and Urban Electric Transport in the Russian Federation and on Amending Certain Legislative Acts of the Russian Federation” of July 13, 2015 N 220-FZ (hereinafter - the Law on organization of passenger transportation) [1]. Prior to the adoption of this law, these relations were not regulated at the federal level; legal regulation was carried out by regions of the Russian Federation and local self-government; therefore, it is still one of the most difficult and controversial areas of life.

In addition, certain issues of passenger transportation are covered by the Federal Law “The Charter of Road Transport and Urban Ground Electric Transport” of November 8, 2007 N 259-FZ [2], the Civil Code of the Russian Federation [3] and other federal laws [4].

In Irkutsk region, these issues are regulated by the Law “On Certain Issues of Organization of Regular Transportation of Passengers and Baggage by Road Transport and Urban Ground Electric Transport” of December 28, 2015 N 145-OZ [5].

In Irkutsk, the Regulation on organization of regular transportation of passengers and baggage by road and urban electric transport approved by the Resolution of the city

administration of December 24, 2015 N 031-06-1231 / 5 is in force.

The Law on Organization of Passenger Transportation provides for two types of scheduled transportation: 1) regulated tariffs, i.e. tariffs established by public authorities of the regions or local authorities; 2) unregulated tariffs established by the carrier (i.e., individual entrepreneurs and legal entities engaged in regular passenger transportation).

III. RESULTS

An analysis of the law enforcement practice shows that most of the practical problems are as follows: transition to the types of transportation established by the Law on Organization of Passenger Transportation; confirmation of the legal status of a carrier on certain regular transportation routes; issuing documents by the authorized body during the transition period. The current judicial practice of the regions of the Russian Federation is very controversial.

The specifics of court cases *cis* special legal information. Certain legal situations are of scientific interest in terms of their non-standard, factual circumstances of the case, arguments of the court [6]. For example, Panther LLC, which carried out regular passenger transportations along the municipal route No. 30 Novo-Lenino-Central Market, applied to the Arbitration Court of Irkutsk Region declaring that the refusal of the City Committee of the City Administration of Irkutsk (hereinafter referred to as the Committee) to include the route in the register of municipal routes of regular transportation of passengers and baggage is illegal.

In accordance with subsection 39 (1) of the Law on Organization of Passenger Transportation, within thirty days since the official publication of the law, companies and individual entrepreneurs who carried out regular transportation along regular transportation routes in accordance with the agreements, permits, passports of regular transportation routes or regulatory legal acts of the regions of the Russian Federation, municipal regulatory legal acts, have to send to the authorized federal executive body, authorized executive bodies of the regions of the Russian Federation or authorized local authorities information about their scheduled routes, provided for by paragraph 1 of Article 26 of the Federal Law.

Part 2 of Article 39 of the Law states that within 30-108 days since the official publication of this law, the authorized federal executive body, authorized executive bodies of the regions of the Russian Federation, or authorized local governments 1) check the information and take a decision to include or refuse to include these data in the relevant registers; 2) post on their official websites the information on regular transportation routes specified in paragraph 1 of Article 26 of the Law on Organization of Passenger Transportation.

The court found that Panther LLC submitted documents to the Committee confirming the fact of regular passenger transportation at the time this law entered into force. Other documents containing information confirming the legality of its activities (agreements, permits) were not provided. The Committee refused Panther LLC to include its route in the register of municipal routes of regular transportation of passengers and baggage.

The court evaluated the legal grounds and evidence and decided to satisfy the requirements of Panther LLC, according to which the Committee was ordered to include the relevant information about Panther LLC in the register of municipal routes and issue maps of the specified route. Consequently, the court obliged the Committee to eliminate the violations by issuing appropriate permits [7].

The parties appealed to the court of appeal which decided to uphold the first instance decision [8].

The party appealed to the cassation court. The court established a miscarriage of justice and indicated that taking into account peculiarities of the legal regulation, in the absence of the documents giving the basis for carrying out transportation, legality of the transportation cannot be confirmed. Taking into account that the company carried out transportation along the route and did not take actions to coordinate it, the available documents were drawn up and approved arbitrarily by the company, the information provided to it for inclusion in the register of scheduled routes does not create conditions for legalization of its activities. Since the Committee didn't issue permits for the route, it didn't conclude an agreement with it, it didn't have an obligation to include the applicant's information in the register of municipal routes.

The Arbitration Court of the East Siberian District concluded that the judicial acts of the first instance and appeal courts should be canceled [9]. Assessing the actions of the parties as *bona fide* or unscrupulous, the courts should proceed from the behavior expected of any participant in civil relations taking into account the rights and legitimate interests of the other party [10].

There are other problems arising from the requirements of the current legislation. In particular, according to the Law on Organization of Passenger Transportation, in the case of a complete transition to the two types of transportation specified by the law, benefits are provided for socially unprotected citizens (pensioners, members of large families, disabled people, etc.) by federal, regional or municipal acts on municipal routes with unregulated tariffs (i.e., regardless of the will of the carrier).

In addition, significant problems are caused by the implementation of regulated tariffs. In accordance with subsection 14 (2) of the Law on Organization of Passenger Transportation, regular transportation at regulated tariffs is carried out through contracts concluded with the authorized executive body of a region of the Russian Federation or the authorized local government or other state or municipal customer. In this case, the subject of the contract is performance of works by a company or an individual entrepreneur. In this case, the following problems can arise: a) the calculation of an initial maximum price of the contract (the lack of a uniform practice and regulatory regulation); b) a source of financing (the lack of municipal funds); c) competitive procedures for a large number of municipal routes; d) adverse consequences associated with the adoption of response measures by the control bodies (antitrust authorities).

We cannot but touch upon legal gaps regarding the need to establish special requirements for carriers in the field of

environmental protection legislation, consumer protection and sanitary and epidemiological legislation. There are no legislative requirements for sanitary conditions of passenger cabins which can cause harm to the environment, as well as make it impossible to respond to dangerous situations.

IV. CONCLUSION

Stratification processes indicate that public authorities and local governments should provide support for urban passenger transport and pay special attention to the regulation of urban passenger transport.

It is necessary to establish social standards for implementing competitive procedures for a large number of municipal routes, controlling transportation of passengers, quality of services, creating a social and economic basis for the successful development of society, business, and interaction with authorized government bodies and implementation of new government tools.

References

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