

Criminal-Legal Aspects of Traffic Safety Violations in the Railway Transport of the East Siberian Federal District

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Abstract— This article reflects the main issues facing the transport system in the field of traffic safety and operation of railway transport, analyzes the criminal law aspects of the current legislation. Railways are an important part of the Russian transport network. Most of the Railways belong to the East Siberian railway. A special place in ensuring railway safety is occupied by legal regulators, especially the norms of criminal law as the most effective means of influencing socially significant behavior. The criminal code provides four rules on liability for violations of the safety of rail transport: 1) violation of the rules of traffic safety and operation of rail, air or water transport (Art. 263); 2) poor quality repair of vehicles and their release into operation with technical faults (art. 266); 3) bringing into disrepair vehicles or means of communication (article 267); 4) violation of the rules ensuring the safe operation of transport (article 268). In quantitative terms, they are quite enough to counter internal and external threats to the safe functioning of rail transport, but there are a number of significant shortcomings that do not allow to realize their protective potential to the full.

Keywords — history of railway transport, traffic safety violations, criminal case

I. INTRODUCTION

The initiators of railway construction in Siberia in the second half of the nineteenth century was enough, and the need for railway construction in Siberia in the office of His Imperial Majesty received repeatedly. One of the initiators of the construction was the Governor-General of Eastern Siberia N. N. Ants. He was one of the first who raised the question of the construction of the railway on the Siberian outskirts of Russia with the aim of their intensive settlement and consolidation. Still in the letter addressed to Nikolay I – the Emperor of Russia N. N. Ants argued about the need for railway construction in the far East. However, the state Chancellor count K. V. Nesselrode opposed and Muravyov's report "went to the table". But Nicholas was not "obedient to the governors." Having joined the Amur region to Russia, in 1857, under another Russian Emperor Alexander II, he showed personal initiative and sent a military engineer D. I. Romanov, who served in Irkutsk, to study the issue of holding a railway in this area. Novels made up the project of constructing a railroad from the Amur river to the Gulf of De Castries. In July 1858, N. N. Ants (count of Amur) again

writes a report to the Emperor about the need to build this road, "the need for which is urgent». In 1857, a us citizen Collins, who traveled from St. Petersburg to the Amur, presented a note to the Governor of the TRANS-Baikal region in Chita, in which he proposed build a railway from Irkutsk to Chita. N. N. Ants-Amur sympathized with this project, gave a positive characteristic to Collins and asked the Minister of communications to support the project.[1] However, the members of the Siberian Committee, not wanting to transfer the construction of the railway to a foreigner, rejected his proposal. The question of the construction of the TRANS-

Alexander III. An important role in this was played by count S. Yu. Witte, who proved to the Emperor the profitability of the TRANS-Siberian construction for Russia. However, I believe that the Irkutsk Governor-General A. P. Ignatiev "moved" the Emperor to this decision.

In his report for 1885-1886, he proved the need for the construction of the road by strategic considerations, the ability to quickly deliver troops for the defense of Transbaikalia. In addition to the state goals, concluded Ignatiev, the laying of the road "undoubtedly would have a beneficial effect on the revival of very weak industry and trade in Eastern Siberia."

This conclusion of the Governor-General caused an important resolution of Alexander III: "How many reports of the governors-General of Siberia I have read and must confess with sadness and shame that the government has so far done almost nothing to meet the needs of this rich but neglected region, and it's time, it's time!". [2]

By order of Alexander III in may 1887, a meeting was convened to discuss proposals for Siberian Railways. It was attended by Ministers and managers of departments. Meeting and resolved at a meeting on June 6, 1887 the fundamental question of the need to build the TRANS-Siberian railway. Thus, a number of proposals coming from the governors of Eastern Siberia were successful, and on June 15, 1887 it was decided to start research on the TRANS-Siberian railway.

Ease of Use Railway transport in the Russian Federation is an integral part of the unified transport system of the Russian Federation. In cooperation with organizations of other modes of transport is designed to timely and efficiently meet

the needs of individuals, legal entities and the state in rail transport, to contribute to the creation of conditions for the development of the economy and ensure the unity of the economic space in the territory of the Russian Federation.

Rail transport in the Russian Federation consists of a railway transportation of the General using, a railway transportation of non-public and also the technological railway transportation of the organisations intended for moving goods in the territories of these organizations and executing the initial-final operations with a railway rolling stock for own needs of these organizations.

The operation of railway transport is based on the following principles:

sustainability of rail transport;

availability, security and quality of services;

development of competition and formation of the developed market of railway transport services;

consistency of functioning of the unified transport system of the Russian Federation.

An analysis of train safety indicates that, despite the measures taken to improve train safety, there is no need to be complacent. The existing security system cannot be considered safe. Therefore, the actual situation with traffic safety and the understanding that there is no absolutely reliable and completely trouble-free systems require constant and comprehensive work of specialists.

Organization of railway traffic safety.

Traffic safety on a railway transportation is a complex of organizational and technical measures aimed at reduction of the probability of the occurrence of the facts of threats of life and health of passengers, safety of cargo, safety of infrastructure and rolling stock of railway transport, ecological safety of the environment. The problem of ensuring traffic safety on the railway transport appeared simultaneously with the transport itself.

In accordance with the order of the Ministry of Railways of the Russian Federation No. 1-p from 08.01.1994 G. (ed. from 17.10.2000) "On measures to ensure traffic safety on railway transport" and by the order of Russian Railways No. 1632p from 18.10.2005 "On the account in JSC "RZD" marriages in train and shunting work on the Railways" violation of traffic safety on railway transport are divided into the following types: crash, accident, special occasion of marriage in the case of marriage in the work; difficulty in the work; other.

Crash. Collisions of passenger or freight trains with other trains or rolling stock, rolling stock descents in passenger or freight trains on stages and stations which resulted in death or serious bodily injury to people, damaged locomotives or cars to the extent of their exclusion from inventory.

II. METHODS AND MATERIALS

Accident

1. Collisions of passenger trains with other trains or rolling stock, descents of rolling stock in passenger trains on stages and stations, which have no consequences as in the crash, but as a result of which damaged locomotives or cars, respectively, in the amount of repair of TR-2, depovsky and more complex.

2. Collisions of freight trains with other freight trains or rolling stock, rolling stock descents in freight trains on stages and stations, which have no consequences, as in the crash, but as a result, which allowed damage to locomotives or cars in the amount of overhaul.

3. Collision and derailling of the rolling stock at maneuvers, gear and other movements that result in fatalities or serious injuries to people or damaged locomotives or wagons to the extent of excluding them from the inventory.

Special occasion of marriage in the work

1. Collisions of passenger or freight trains with other trains or rolling stock, rolling stock descents in passenger or freight trains at stages and stations without consequences as in a crash or accident.

2. Taking the train on a busy path.

3. Departure of the train on a busy stretch.

4. Reception or departure of the train on an unprepared route.

5. Directions prohibiting signal or the marginal column.

6. Translation of the arrow under the rolling stock.

7. Leaving the rolling stock on the routes of reception or departure of trains or on the stage.

8. Collision of a train with a motor vehicle or other self-propelled machine, made through the fault of railway workers.

Case of marriage at work

1. Uncoupling of the car at the intermediate station due to violation of the technical conditions of loading, threatening the safety of train traffic

2. Descents of the rolling stock at maneuvers, equipment and other movements which do not have consequences as at accident but at which locomotives in the volume of TR-1 or cars in the volume of the current uncoupling repair are damaged. [3]

The difficulty in the work.

Difficulties in the work are considered to be cases where traffic safety violations do not fall under the definition of cases of marriage in the work, special cases of marriage, accidents, crashes, but caused a train stop, the use of emergency braking. [4]

Other.

Other cases include violations of traffic safety, which was the result of third-party reasons (weather conditions, collisions

at level crossings through no fault of the railway workers, the imposition by outsiders of objects on a railway track). [5]

Organization of traffic safety and operation of railway transport and other technical means is regulated by Art. 20, 21 of the Federal Law of the Russian Federation "On railway transport of the Russian Federation" dated January 10, 2003 №17-FZ.

III. RESULTS

In the Sverdlovsk region opened a criminal case on the fact of the descent from the railway wagons of a freight train.

The investigative bodies of the Ural investigation Department on transport of the Investigative Committee of the Russian Federation on the fact of the descent from the railroad tracks of freight train cars opened a criminal case on the grounds of a crime under part 1 of article 263 of the criminal code (violation of the rules of railway traffic safety by a person, by virtue of the work performed or position held obliged to comply with these rules, if these acts caused major damage by negligence). [6]

According to investigators, March 2, 2015 at 20 hours 12 minutes of local time at 137 km 6 picket station Ivdel-2 Verkhnekondinskoy distance of the Nizhny Tagil region of the Sverdlovsk railway when following the freight train allowed its stop due to pressure drop in the brake line as a result of the descent of 6 cars.

As a result of the descent, 6 cars, about 75 meters of rail thread were damaged, as a result of which the said transport accident of JSC Russian Railways caused major damage in the amount of more than 1 million rubles.

Now the investigative actions directed on establishment of all circumstances of an event are carried out, witnesses and victims are interrogated, examinations are appointed.

The evidence collected by the investigative bodies of the East Siberian investigation Department on transport of the Investigative Committee of the Russian Federation was found by the court to be sufficient for sentencing the road foreman of the site.

He was found guilty of a crime under part 1 of article 263 of the criminal code (violation of traffic safety rules and operation of railway transport).

The consequence and court it is established that on 27 October 2017 road master line section completed the replacement of rail on the stretch "Bada-Zhipkhegen" on the territory of Hiloksky area of Transbaikalian edge. After their completion, he did not properly measure its height, and therefore between stacked and adjacent to the track rails formed a vertical step of 2.5 mm.

The presence of this deficiency in conjunction with the worn-out composite insulating lining of ApATeK and drawdowns of the 2nd degree, close in size to the 3rd, led to the descent on December 26, 2017 of 16 cars in the freight train, as a result of which JSC "Russian Railways" caused major damage in the amount of 16.5 million rubles.

The sentence of court to the road master of a site is imposed punishment in the form of a penalty of 120 thousand rubles. [7-8]

The investigative bodies of the East Siberian investigation Department on transport of the Investigative Committee of the Russian Federation opened a criminal case on the grounds of a crime under part 1 of article 263 of the criminal code (violation of the rules of traffic safety and operation of railway transport, which caused major damage by negligence). [9]

According to investigators, on January 12, 2019 at 8 hours 58 minutes local time on 4960 km of the East Siberian railway on the stretch "Delyur-Tyret" there was a derailment of 29 cars with coal freight train № 2002.

As a result of gathering of victims and victims isn't present. 250 meters of the railway line, 2 supports of the contact network are damaged. The amount of damage caused by JSC "Russian Railways" exceeded 1 million rubles.

Currently, a set of investigative actions aimed at establishing all the circumstances of the crime is being carried out. The investigation of the criminal case is ongoing.

The investigative bodies of the East Siberian investigation Department on transport of the Investigative Committee of the Russian Federation have completed the investigation of the criminal case against the road master of the Petrovsky-Factory distance of the way - a structural unit of the TRANS-Baikal Directorate of infrastructure - a structural unit of the Central Directorate of infrastructure - a branch of JSC "Russian Railways", which is accused of committing a crime under part 1 of art. 263 of the criminal code (violation of the rules of traffic safety and operation of railway transport, resulting in negligence causing major damage).

According to the investigation, on October 27, 2017, the accused, being a road master of the linear section, carried out work on replacing the rails with violations, as a result of which a path malfunction was formed in the form of a vertical step of 2.5 mm, which according to the instruction on the current content of the railway track at an air temperature of -25°C and below required limiting the speed of trains to 25 km/h.

As a result of improper performance of work on the change of rails, December 26, 2017 at 4: 40 am local time in the Khilok District of the TRANS-Baikal territory on the stretch "Bud – Zhiphegen" TRANS-Baikal railway there was a descent of 16 freight train cars with pulp products, due to the failure of all wheels inside the rail track due to the left rail thread in the joint, which occurred due to a fracture when following the train under the influence of the load from the rolling stock, due to the unsatisfactory current content of the path, which led to a decrease in their cross section and bearing capacity.

The amount of damage caused by JSC "Russian Railways" exceeded 16.5 million rubles.

In order to establish the causes of the incident, the investigation carried out a judicial operational and technical expertise, according to the conclusions of which the technology of work performance and the requirements of the

rules of traffic safety and operation of railway transport were violated during the replacement of rails by the accused.

The investigation collected sufficient evidence, and therefore the criminal case with the approved indictment sent to the court for consideration on the merits.

IV. CONCLUSION

The main purpose of accident investigation is prevention. Finding the causes of an accident and taking measures to control or eliminate it can help prevent similar accidents in the future. Accidents can rarely be explained by a single cause. The work environment, job restrictions, and experience of the management or employee can play a role. These factors need to be studied to determine what role each of them played in the accident.

Once the causes are established, precautions must be identified and implemented to prevent relapse. Investigators should always bear in mind that effective accident investigation means fact-finding, not guilt-finding.

To explain why and how the accident occurred, investigators must gather information about events that occurred before and during the event. Investigators can then determine the conditions of the accident by examining evidence and interviewing witnesses. Both of these steps are of equal importance and should be taken as soon as possible to ensure a full investigation of the accident. Equally important is the need to document the steps that were taken immediately after the accident to respond to the emergency and to initiate an investigation. It also determines the forms and procedures within the established time frame.

In order for an investigation to be a valuable tool in accident prevention, three things must take place:

- the collected information should be analyzed;
- corrective measures should be taken; and
- these actions should be monitored for their effectiveness.

The analysis revealed a tendency of skill-based errors to more common types of train failures. In accordance with previous studies conducted on the railway transport, the sustained attention were the most noticeable to the human factor in all types of incidents, particularly inattentiveness to railway signals. In light of the reduced attention deficit, the unfavorable working environment and the repetitive nature of the train management task are discussed. In addition, a safety checklist for railway transport has been developed to identify the safety perceptions of drivers.

One hundred and ninety train drivers indicated that the attitude of staff in the form of low morale was a serious problem for the safe performance of their work. The results of this study suggest that useful strategies to increase driver alertness should be aimed at improving the safety culture of the operating environment.

Given that the investigation of railway accidents or incidents is likely to involve infrastructure managers or railway undertakings, it is essential that the investigating

authority be independent, in particular from these entities, so as not to interfere with the tasks performed by the investigating authority.

Railway bridges and embankments can be affected by heavy rains and sudden downpours, which lead to floods and disturbances, thus creating dangerous conditions on the tracks and causing accidents. Therefore, during heavy rains, the following safety measures should be taken to ensure the safety of the route.

In accordance with the Federal law on transport security, Russian Railways are taking a number of measures to ensure the safety of railway facilities.

In 2013, the company allocated more than 16.3 billion rubles to ensure the safety of the most important railway public transport facilities (in 2012 — 14.9 billion rubles). This helped to activate the security system of 6130 objects (9.3% more than in 2012). The company has allocated 16.3 billion RUB increase in the number of protected railway facilities have increased their security and reduce theft of property by 18%.

In 2013, the company focused its efforts on taking a number of measures to improve the safety of railway infrastructure facilities used for transport services. In 2018, 30 thousand crimes were committed in the railway transport sector, including in long-distance, international and suburban trains.

According to the law enforcement agencies, out of 36.6 thousand illegal actions committed in the transport sector in 2018, 30 thousand were committed in trains. Malefactors use this type of transport for drug and weapon transportation. Each year, the investigative body publishes a report containing information on previous year's investigations, security recommendations and measures taken in accordance with previous recommendations. [10]

Railway personnel involved in a railway accident must immediately report the accident to the nearest railway traffic control station, the nearest law enforcement Agency or the nearest joint rescue coordination centre. However, this does not apply if the employee knows that the notification has already been given.

The obligation to notify under the first paragraph shall also apply to any witness of a railway accident, unless the witness has reason to believe that such notification is not necessary in the circumstances.

Whenever on railway accidents reported to the nearest unit of the rail traffic management, the nearest police authority or the nearest of the joint rescue coordination center, the authority shall promptly notify the other mentioned authorities, and shall notify the investigating authority and the Supervisory authority. However, this does not apply if the authority is aware that a notification has already been sent.

To ensure the safety of railway traffic, it is necessary to maintain and modernize such facilities as railways and railroad tracks, improve railway track protection in order to prevent damage caused by torrential rains, falling rocks and avalanches. The transport prosecutor's office and the Russian

Railways have to carry out regular inspections, maintain and manage railway facilities. The government should encourage the proper maintenance and repair of the facilities and vehicles on small and medium local railways by implementing a maintenance improvement program providing long and middle-term measures to be taken by railway operators. As for station facilities, the government should pay due attention to the safe use of railway stations by the older and disabled and install fall prevention equipment in order to create a “barrier-free” environment. The government should encourage railway operators to take safety measures to prevent the older and disabled from falling off the platforms. Examples of such measures are emergency stop buttons or floor mats designed to detect falls and provide an evacuation space under the platforms.

The government and railway operators are discussing measures aimed at improving out-of-hours contact procedures and expand communication systems so that they can collect and transfer information faster and more accurately in case of major accidents or disasters. In addition, the government is ready to improve its operations management system so that it can respond to schedule violations or accidents. This can be done by analyzing operating conditions of trains, establishing emergency contacts, providing relevant information to passengers, taking immediate emergency measures and improving emergency transportation systems. These measures will reduce the damage and social consequences caused by railway traffic violations.

It is necessary to comply with safety procedures at workplaces, check physical and psychological conditions of railway workers who have to be able to perform their duties and ensure safe operations. It is necessary to disseminate knowledge of safe driving at track crossings in order to avoid railway accidents and prevent operational accidents (track crossing accidents, accidents caused by external factors). It is necessary to instruct railway operators to carry out awareness-raising activities in schools, among people living along railway tracks and trucking companies (national road safety campaigns, posters, flyers). It is necessary to implement

security measures to protect workers engaged in the construction and maintenance of railway facilities. For prompt and accurate investigation of causes of railway accidents, comprehensive studies are required. It is worthwhile to improve knowledge gained during investigations of past accidents, analyze recording devices, improve analytical methods, use accident analysis results when investigating the causes of accidents.

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