



THE IMPACT OF THE LEGAL ENVIRONMENT ON THE COMPETITIVENESS OF REGIONAL BUS TRANSPORT IN POLAND, WITH PARTICULAR EMPHASIS ON STATE-OWNED ENTERPRISES

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Abstract

All forms of transport in each country are regulated by the relevant regulations. Road transport is also subject to appropriate legal regulations. However, unlike other transport modes, it is a dynamically developing sector of the free market economy. In Poland, both European and Polish regulations apply to regional bus transport. It should be emphasized that important changes have recently been made in Polish regulations. These changes concern the management of public transport, which also includes regional bus transport.

The article also draws attention to the ownership status of enterprises operating on the Polish regional bus transport market. There are also state-owned enterprises in Poland, which are particularly taken into account in the new regulations.

This article discusses the impact of the legal environment on the functioning of enterprises in a given industry, with particular emphasis on state-owned enterprises. First of all, the importance of macro-environment for the functioning of the company and its relation to the decisions and objectives assumed are presented. The next part of the article deals with the characteristics of the legal environment as an element of the macro-annual and current research in the field of discussed issues. Then, the research methodology is presented. In the further part of the work, the results of a qualitative study covering analysis of the legal environment of bus regional transport in Poland as well as selected legal regulations concerning state-owned enterprises is presented.

The aim of the presented study is to gain the inside into the knowledge of the impact of the legal environment on the competitiveness of regional bus transport in Poland with the use of emphasis on state-owned enterprises using the PEST method.

Keywords: Regional transport, car communication enterprises, public transport in Poland, environmental analysis

1. INTRODUCTION

One of the main goals of each company is to survive on the market and to continue to compete and in the end achieve the leading position. This can be done through the appropriate use of opportunities and avoiding threats appearing in the company's environment. For this reason, the future decisions must be compatible with the respective strategies created individually for each company and its environment [1,2]. In order to make right decisions and strategies which lead to an increase in the competitiveness of an enterprise, it is first necessary to get to know its surroundings [3]. This environment can be analyzed on a micro and macro scale [4].

Currently, the macro-environment is increasingly affecting the enterprise [5]. For this reason it is important to identify the factors that determine the achievement of specific strategic goals of the company [6], including competitive advantage. Correct assessment and reaction to trends taking place it should be done first individual segments of macro-environment will allow for market success. In order to do this, the market

opportunities for the company should be looked for, paying attention to possible threats [7]. To achieve this goal, appropriate methods of strategic analysis are used. It enables identification of important factors occurring among others in such segments of macro-environment as the legal environment, which is of key importance for the surveyed enterprises [8]. It should be noted that strategic analysis is an element of strategic management and, in turn, in current turbulent conditions of competition on the market is more important than ever before [9].

2. LEGAL ENVIRONMENT OF THE COMPANY AS A COMPONENT OF MACROOTHERIZING

The legal environment is one of the most important elements of the environment at the macro scale in which entrepreneurs run their own business. Without a reasonable law and a functioning state that will enforce them, there will be no stable and effective market for the exchange of goods and services. This market is an important condition for the effectiveness of enterprises. Many areas of the company's activity are subject to the influence of regulatory bodies. Legislation often consists of restrictions that have been imposed by the state on the business with regard to the conduct of its activities. These regulations are intended to protect enterprises. Some of them were adopted to ensure healthy competition and fair business practices [4]. However, the impact of legal regulations on the functioning of enterprises may also be negative [10]. An example is when the law does not keep up with current challenges or when the law is a source of uncertainty. Therefore, the question may be asked whether companies operating in one sector and in an unfavorable legal environment suffer from this, or are they adapting to a bad legal environment, as in Coase [11]?

The impact of the legal environment on the functioning of enterprises has already been analyzed in previous studies. These studies were conducted in relation to corporate governance [12-14], financing of development [15-17], human resources management [18], the level of banking development and its impact on economic development [19] or self-regulation of enterprises [20]. These studies were conducted at the national level and provide valuable comments on the effects of the legal environment, however, according to Durnev and Kim, they do not raise issues at a more detailed level, for example one sector or a given company [21]. Research on the subject matter of the article has already been partly discussed. Studies of GŁADYSZ, A. et. all. [22] provide a general overview of the rules on the regular carriage of passengers and, in particular, attention that has been paid to the technical aspects of vehicles. It should be noted that these studies were carried out before the introduction of important changes in the Polish legal regulations concerning the regional bus transport organization, and also the considerations were made regarding only municipality. In turn, PIEŁA, C. [23] presents the research of legal regulations, but referring to regulations that are no longer in force. It is important that they indicate the threats arising from the legal environment of the surveyed enterprises already in 2011. One of the more extensive publications is the one published by the SENACKI INFRASTRUCTURE TEAM [24]. It is a collection of four speeches during the conference, the purpose of which was to check the state of public transport in Poland. However, the conference took place in 2011 so also before the implementation of the new legal provisions. It is worth mentioning the publication of BENTKOWSKA-SENATOR and KORDEL [25] where the analysis of current legal regulations was made but with reference to liberalism and interventionism.

Reviewing the literature, it can be noticed that there are no current publications on the impact of the legal environment on the competitiveness of regional bus transport in Poland, also taking into account recent changes in legal regulations. For this reason, the purpose of this article is to increase knowledge about the impact of the legal environment on the competitiveness of regional bus transport in Poland with the use of the emphasis on state-owned enterprises using the PEST method.

3. METHODOLOGY

In order to analyze the segments of macro-environment of regional bus transport in Poland, qualitative research was applied and the research tool was used - the PEST method. The name of this method was

created from the first letters of factors: political - P, economic - E, social - S and technological - T [26]. This method was developed as a macro-perception tool in which the company operates. It is used to identify and understand the key elements currently present or that may occur and will affect the functioning of the company [27]. However, this tool is only an intermediate step in the strategic analysis process because it does not identify specific problem areas but provides guidance to decision makers on issues that may affect the success of their initiatives [28].

For this reason, the author's previous research on companies from the market studied included the definition of strategic groups [29], the history of adverse changes that took place over fifty years of their functioning [30], or logistic customer service analysis in the aspect of creating their competitive advantage [31]. In addition, the results of research are in the process of on these enterprises, including an assessment of their competitive environment using the economic profile method of the sector and publications covering the analysis of other segments of regional bus transport macro transport in Poland. For this reason, the article only presents an analysis of one legal segment of macro-environment. In the subsequent studies of the author concerning the discussed issues, other known methods of strategic analysis will be used, including the Porter model, the BCG and ADL matrices as well as the SWOT-TOWS analysis. All these studies will lead to the creation of a model of the strategic concepts of the surveyed enterprises.

4. ANALYSIS OF THE ENVIRONMENT OF LEGAL BUS REGIONAL TRANSPORT IN POLAND

Road transport is one of the activities that, although subject to legal regulation, is also a constantly growing sector of the free market economy. Regulations concerning the rules of taking up and executing road transport in Poland are included in both Community and National law [32]. Recently, important changes have taken place in the Polish legal regulations regarding regional bus transport. It seems that these changes will have a significant impact on the transport market.

One of the basic legal acts in Poland regarding the organization of regular and regional bus transport is the Act of 15 November 1984 on Transport Law [33]. It contains the duties, rights and restrictions on the regular carriage of persons, the liability of the carrier for the carriage of passengers and other titles, as well as criminal provisions.

On December 3, 2009, Regulation (EC) No. 1370/2007 of the European Parliament and of the Council of October 23, 2007 became applicable. This applies to public services in the field of, inter alia, road passenger transport. According to art. 8 of this Regulation, contracts leading to the conclusion of contracts for the provision of public services in the field of road transport should be granted in accordance with the principles set out in this Regulation from 3 December 2009. During the transitional period, Member States take measures to gradually achieve compliance with the provisions of the Regulation. in order to avoid serious structural problems, in particular related to transport capacity [34]. On December 24, 2017 Regulation (EU) No 1370/2007 came into force. Regulation (EU) 2016/2338 of the European Parliament of 14 December 2016 amending Regulation (EC) No 1370/2007. According to these regulations, local governments should start procurement procedures for public bus transport, starting with the publication of relevant announcements [35].

There are two limitations in the business activity of regional bus services. These are licenses for road transport and permits for regional and regular transport in road transport.

The Act of 6 September 2001 on road transport sets out the rules for establishing and performing [36]:

- national road transport;
- international road transport;
- non-commercial domestic road transport;
- non-commercial international road transport.

The Act also defines the rules of operation of the Road Transport Inspection and liability for violation of duties or conditions of road transport:

- entities performing road transport or other activities related to this carriage;
- drivers;
- people managing transport;
- other people involved in road transport activities.

In addition, this Act sets the local government administration at all levels as the regulator of the road transport market. Unfortunately, regional bus transport in Poland in communication outside the city area is not monitored to a large extent. In practice, the role of these authorities focuses only on collecting appropriate fees and issuing the necessary administrative decisions for each transport line requested by carriers

The amendment to the Polish Act on public road transport stipulated that new revolutionary changes concerning public transport would enter into force. Unfortunately, the Polish legislator extends important deadlines for this transport every year [37,38]. For this reason, the majority of Polish local governments do not start these procedures despite the publication of announcements. However, from the moment they are in force, local self-government units are responsible for organizing public mass transport in their area. The most important change should be the one that talks about the appearance of the organizer, operator and carrier. The Act specifies that the organizer of public mass transport is "the competent local government unit or minister competent for transport issues, ensuring the functioning of public transport in a given area", the public transport operator is a "self-governmental budgetary establishment and an entrepreneur authorized to conduct business in the field of transport persons who concluded with the organizer of public collective transport an agreement for the provision of public mass transport services on the communication line specified in the contract" and the carrier is "an entrepreneur authorized to conduct business in the field of passenger transport based on confirmation of a transport declaration" [39]. The Act also indicates that public transport will take place under the rules of regulated competition. As JAKUBOWSKI and DULAK [40] points out, in reality the amendment has changed almost nothing. Most of the organizers indicated in the Act did not implement their statutory duty. Less than 10 % of districts launched communication in their area, and only single voivodships included bus services in their plans.

In regional bus transport in Poland, allowances for cheaper transport are applied. Costs related to bus travel concessions are covered by co-financing from the state budget. The Act of 20 June 1992 on the entitlements to concessionary travel by means of public mass transport regulates the entitlement to concessionary public transport by public transport in regular passenger transport, performed by authorized railway and bus carriers [41]. In addition, the Regulation of the Minister of Internal Affairs and Administration of March 12, 2008 on the types of documents confirming the entitlement to use concessionary journeys by public mass transport [42] applies here. An important change introduced by the amendment to the Road Transport Act with respect to these concessions is the right to compensation for lost revenues, i.e. the application of concessions. It should be noted that only the operator will be entitled to compensation for honoring statutory discounts or introduced by the organizer. However, the problem in this case may be the poverty of local governments and the excess of obligations imposed by the new regulations. If the local government does not take the role of transport organizer, all communication on its territory will be liquidated [43]. In this situation, the regional transport bus will lead to withdrawal and, as a result, may even lead to the collapse of subsequent transport companies. Only enterprises that support important communication lines, often illegally as occasional services, will survive [44,45].

5. SELECTED LEGAL REGULATIONS CONCERNING STATE ENTERPRISES

According to Polish regulations, a state-owned enterprise is an independent, self-governing and self-funded entrepreneur with legal personality. The Act of 25 September 1981 on state-owned enterprises applies to the

operation of state-owned enterprises. It clarifies the rules for establishing state-owned enterprises, defines the rules of mixed enterprises. It refers also to the organization of a state-owned enterprise, its organs, property, representation, operations and supervision. In addition, it refers to the company statute, the register of state-owned enterprises as well as the merger, division, liquidation and bankruptcy of enterprises. In addition, the Act on state-owned enterprises is used in contracts for company management and recovery proceedings [46].

From the point of view of the economic and financial efficiency of Polish passenger road transport, the ownership status of operators is of great importance. In the literature one can find the statement that one should "move towards the privatization of Car Communication Enterprises (PKS), operating in the form of State Treasury companies and state-owned enterprises, after their prior commercialization" [47]. Car communication enterprises were the prototype of bus transport in Poland. The economic transformation in Poland initiated in the nineties of the twentieth century and involving the transformation of the economy into free market [13-15] meant that these entities were facing ever greater difficulties in functioning. Over the past nearly twenty years, most of the 200 companies do not exist anymore. Currently, only about 30 enterprises are still functioning and at the same time remaining in public ownership [29,30,51].

The transfer of ownership of Car communication Enterprises, formerly state-owned enterprises, to local self-government entities occurred as a result of commercialization, through commercialization acts. Then most of these entities were privatized. This was done on the basis of the Act of August 30, 1996 on Commercialization and Privatization of State Enterprises [52].

For enterprises that are owned by local government units, appropriate regulations and ordinances, most often of an internal nature and binding only organizational units subordinate to the authority issuing the order, are applied.

Publicly operating bus transport market, of course, applies to the already mentioned Act on public transport. It follows from Article 3 that its provisions apply, inter alia, to Regulation (EC) No 1370/2007, according to which transport undertakings assume the responsibilities assigned to the competent public authorities. This means that state-owned enterprises, in this case commonly referred to as "bus stations", should act as a social enterprise, where they carry out a social function by providing public services. In practice, unfortunately, the performance of this important function by the surveyed enterprises is very often not rewarded by local governments in any way [47].

6. CONCLUSION

It is important to create the right institutional solutions that will ensure market access and competition. Proper structure, healthy competition and limiting negative market phenomena are factors that undoubtedly affect the achievement of competitive advantage by enterprises.

It seems that priority should be given to enterprises belonging to the public sector to designate a public transport operator. These are the Automobile Communication Companies, which in their present form have been operating since 1990, but previously formed one state-owned enterprise. For these enterprises, such a way of choosing an operator in conjunction with regulated competition gives a good chance to increase the number of courses. As a result, this may translate into an increase in customers and increase in their competitiveness. This advantageous situation is only able to occur if the amendment of the Road Transport Act is strictly observed by local governments, including in particular the payment of compensation by organizers to operators and appropriate regulation of competition on the public mass transport market and the strict control of local governments with their new functions. However, nowadays, this seemingly ideal situation is unlikely.

Answering the question posed in the article, it can be stated that in the case of state-owned enterprises operating on the regional bus market, they suffer from unfavorable surroundings and at the same time try to adapt to it.

It is advisable that the cardinal function of the state in the regulatory sphere should be limited to regulations whose aim should be to protect public interests from the negative effects of the market mechanism. By introducing legal regulations, changes in the tax system or other regulatory undertakings, the state aims to improve the management processes. In the case of state-owned enterprises operating on the regional bus transport market, this sphere is very complicated. It is a big barrier while creating a competitive advantage. Operators operating on this market are not treated equally. The specificity of these state-owned enterprises means that they are subject to a very large number of legal regulations. They are also subject to a special control procedure because they are often the largest enterprises on the local transport market. Therefore, in individual cases, when quick and decisive steps should be taken, legal regulations do not allow such moves. In addition, the performance of imposed social function by Car Communication Enterprise from the public sector without proper gratification by local governments makes the basic activity of bus transport unprofitable. Therefore, with regard to state-owned enterprises operating within regional bus transport, the regulatory sphere of the state limits their development more than protects them against market mechanisms. For this reason, these companies are not able to build an effective competitive advantage.

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