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NOVELTIES IN PASSENGER ROAD TRANSPORT IN THE REPUBLIC OF CROATIA

ABSTRACT:

In May 2018 the Croatian Parliament passed a new act in the urgent procedure, an Act on Road Transport. Significant changes were introduced in the area of road transportation of passengers, particularly regarding market liberalization of passenger taxi transportation, introduction of micro transport and regulation of the integrated passenger transport. This paper attempts to present the basic changes introduced by the new legal framework and the opportunities that it has opened on the market.

KEY WORDS:

road transport; passengers; taxi transport; micro transport; integrated transport

1. INTRODUCTION

At its session on 27 April 2018, the Croatian Parliament passed a new Act on Road Transport (further: Act) [1], which fully substituted the same act from the year 2013 [2]. In the explanation of the draft of this Act [3] it was stated that the road transport sector has been experiencing constant technological and technical development, primarily through the use of advanced information technologies. In compliance with the European Union transport policy documents and the strategic development documents of the Croatian transport system by 2030, it is necessary to take into account the real circumstances in the transport supply and demand on the transportation market and further deregulate and liberalize the transportation market in road transport, and facilitate the access to this market.

The implementation of the European traffic law into the national legal framework has imposed the need for further regulation of certain issues that had not been adequately resolved by previous regulations (e.g. taxi transport, car rental with driver, occasional transport, transport of cargo and persons for personal needs, etc.), primarily regarding the emergence of new forms of transportation, resolving of the problem of the fluctuating increase of the transport demand during the summer season, and the organization of accompanying activities in the road transport sector.

The adaptation of the Croatian legal framework in the form of the Act is interesting because it is not just an adjustment to the EU framework, but also an attempt to resolve the two major transport problems in Croatia, which have emerged in recent years:

- Changes in tourists behaviour - while once a tourist was located at one single destination for couple of weeks, today it is exceptionally popular to visit several destinations during the holiday, which significantly increases the need for a taxi during the season in tourist areas, the need for a taxi ride increased even in smaller seaside resorts where it has by so far been neglected;

- the depopulation of large parts of Croatia (Slavonia, Banovina, Lika) has made classic local liner transport unsustainable and not even cost effective, therefore the legislator tried to solve the issue by introducing a completely new category of micro transport.

These changes in the Croatian legislative framework only improved the adaptation to the European legal framework and became interesting as an example to other Mediterranean countries.

The fact to which only a passing reference has been made in the explanation, was the big pressure on the legislator to address the issue of using the globally popular Uber service. As written in the Telegram in 2015: "The idea and the basic purpose of the Uber application is simple. The program that can be installed on any smartphone allows the user to order transport that is not necessarily a standard taxi ride. After the application receives the request and finds your location, the call is forwarded to the nearest Uber registered driver, whose travelling towards you can be tracked on your phone display. Upon arrival to your desired destination, the amount of money you need to pay is deducted from your bank account, and Uber takes its part and the rest is forwarded to the driver." [4] UBER has organized its business operation in Croatia by using the legal lease option with the driver, and this has caused several years of disputes with the competent Ministry. However, the expansion of the transport ordering system through an application that has huge benefits (the same application for the entire world, direct card payment, obtaining of the map with the travelled route) required legal adjustment. The existing taxi service framework was actually outdated, and additionally new models that prefer card payment are ideal in the view of financial control of service provision.

Another novelty is micro transport, which is defined as a form of public passenger transport by M1 category passenger car or M2 category bus, carried out in the areas where there is no organized public transport of passengers, i.e. in the areas characterized by low level of transport demand. According to the explanation of the proposal of the Act, micro transport as a new legal institute, offers the local self-government units the possibilities of solving the issue of public passenger transport in the conditions of reduced transport demand, by concluding contracts and by arranging the model of financing such transport thus providing minimum transport provision by using personal cars and minibuses. [3] In short, this is a transport for poorly populated rural areas.

The third novelty is the organization of integrated passenger transport. Negative demographic movements have caused the development of micro-transport model, but as stated in the explanation of proposal of the Act, "integrated passenger transport as unique organizational, technical, technological and tariff transport system". All public transport vehicles (trains, buses, trams, ships...) have been united in a common passenger transport system in a certain region, and the service is intended for all citizens.

The Act was adopted in an emergency procedure. Among the reasons for such a move it is stated: "Special reason for the adoption of this Act through emergency procedure is a complete reform of the county regular passenger transport, by transition from a system of transport permits to the system of transport as an economic public service, pursuing precisely the Regulation (EC) 1370/2007 on public passenger transport services by rail and by road [5], and the reform of the passenger taxi transport, which reduces the previous administrative and financial barriers and liberalizes the access to the transportation market."

2. TAXI TRANSPORTATION

One of the fundamental changes in the Act is the substantial liberalization of the taxi transport. The existing legal model was very rigid and, in some cases, allowed almost monopolistic position of the existing taxi carriers. There were a few taxi drivers in the big cities, and transportation was expensive. There was a special emphasis on limiting the number of licenses for taxi vehicles by local self-governments.

Taxi transport was considered something "for the rich" and not as in most of the world: another form of public transport. Due to high prices, the number of rides was small, and therefore tax revenues from this activity. In addition, as most of the rides were charged in cash (unlike new models preferring card payments), tax evasion possibilities were great. And finally, particularly high night-time driving prices reduced the effects of promotional actions, such as: not to drive after consuming alcohol, but rather to call for public transport.

2.1 Reasons for Liberalization

The possibility of performing taxi transport has been already partially liberalized by the old Road Transport Act. The older regulations mentioned, namely, that taxi transport is performed based on the licence or a concession, and the concession model can be regarded legally as a complex. [6]

Article 56 of the old Act stated that taxi transport is performed on the basis of the acts and regulations that in compliance with this Act are brought by the competent body of one or several local self-governments, in this matter the City of Zagreb, having a status of a city and county. Taxi transport was performed on the basis of a permit, if thus stipulated by the stated regulation. The permit was issued by the competent body of the City of Zagreb to a legal or natural person who fulfills (hence cumulatively) the following conditions:

- owns a valid permit to perform taxi transport,
- passed the exam, i.e. has an employed driver with a passed exam referred to as in the Article 59 of the respective Act.

The mentioned Article 59 of the Act defined that the Taxi vehicle driver shall have a passed exam on the basic knowledge about cultural, economic, tourist, traffic and other significant facilities and sights in the area of their respective transport services provision. Furthermore, the competent body of the City of Zagreb, provides the exam program and the knowledge testing method.

What did it look like in practice? For instance, the Ordinance on Special Exam for Taxi Vehicle Drivers with the Exam Program for the city of Sisak [7] required knowledge about the urban and historical development of Sisak, Lonjsko polje Nature park, significant facilities, as well as trade fair dates. The comprehensive Zagreb handbook Materials for the Preparation of the Oral Exam for Taxi drivers [8] published on the web pages of the City of Zagreb, contained also a text such as e.g.: "Petrova gora – once this mountain was called Gvozd which means forest. After a great battle between the Hungarian army on the one side and the Croatian army led by the King Petar Svačić, on the other side, Croatian King Petar Svačić was killed on that mountain, and thus this mountain was named after him, Petrova gora."

In the time of today's smartphones where the user finds such information without any problem (and updated as well), and for the navigation through the city even the natives use Google Maps because it indicates traffic jams, it is obvious that these regulations were outdated. Interestingly, no foreign language knowledge was assumed here.

2.1 Liberalization in the new act

The new Act on road transport primarily defines taxi transport much more precisely, and in its glossary it says: taxi transport is an activity of public passenger transport which is performed by a passenger car of M1 category, if one passenger or a connected group of passengers board on one or several places, and disembark at only one place, and such transport is performed based on one order and with one payment of the total charge for the performed transport determined by a taximeter or an electronic application, providing the passenger with in-advance visible maximum price and the travelling route is planned according to in-advance known conditions, with the transport order being realised by a call, electronic application or directly with the driver, and which has no characteristics of other forms of passenger transport. [1]

It is interesting that the legislator (probably in order to prevent Uber and similar services¹ to attempt to circumvent the taxi transport rules) now defines extensively also the vehicle renting with a driver: “renting of vehicle with a driver is an activity of a special form of passenger transport in the road traffic, in which, based on a written contract the lessor (the carrier) shall make available to the lessee (tourist or travel agency, hotel, road transport agent) a high-class passenger car of M1 category, which apart from the driver’s seat has maximally four passenger places (vehicle of at least E segment) with a driver, in order to perform a special purpose transport service (limousine transport, transport of the VIPs, transport of groups of persons for tourist purposes, emergency passenger transport, etc.), where drivers and vehicles have to satisfy special conditions stipulated by a regulation brought on the basis of this Act, which has no features of taxi transportation, and with the service being calculated on the basis of a time unit (hour or day), and the charging is done through cashless payment“. It is interesting that this service has been available in Croatia already for years, through the Blacklane Company [9] specialized for VIP service of collecting passengers at airports (the driver waits at the exit gate, takes over the luggage, with a high class vehicle), but there were no disputes about it.

However, according to the actual Act (Art. 5) the drivers who manage vehicles for the taxi transport of passengers and who perform the activity of renting vehicles with drivers as a special form of transport in the road traffic, which requires a B-category driving permit, have to acquire the initial qualification according to a special program for the B-category drivers. Pursuant to the Article 10 the Minister stipulates by the Ordinance a program and contents of the exam for acquiring of the initial qualification for handling taxi vehicles and vehicles used to perform renting of vehicles with a driver.

Taxi transportation is now being performed through a licencing procedure. Pursuant to the Article 14 of the Act a legal or natural person – tradesman is allowed to perform the activity of public road transport of passengers or cargo in inland road traffic if he has been registered at the court register, i.e. tradesmen register for performing the activity of road transport. Also, if they own a licence for inland transport issued by the office of the state authority in the county, i.e. the body of the City of Zagreb which is competent for the business of transport, according to the carrier’s headquarters / residence. Those who are obliged to have a licence include also taxi carriers. Furthermore, according to the Art. 18 a natural person – tradesman performing taxi passenger carriage, prove their financial capability /solvency/ by a valid insurance policy of all the passengers in the vehicle performing taxi transportation, and which has been concluded in accordance with the special regulation which defines the obligatory insurances in road transport (which are simpler conditions from other forms of transport).

Taxi passenger transport in inland traffic has been especially regulated by a comprehensive Art. 47 of the Act, out of which we focus on: Taxi passenger transport in inland road transport is performed on the basis of licences for taxi passenger transport and permits for taxi transport of passengers.

Legal and natural persons – tradesmen who perform taxi transport, exclusively for stopping in order to embark and disembark passengers, can use the stops intended for public transport vehicles and taxi stands, and for driving they can use specially marked traffic lanes that provide priority of passage. The licence for taxi transport from the para. 1 of this Article is issued by a decision of a competent administrative body for traffic of the City of Zagreb.

Also, important is the provision according to which a legal or natural person – tradesman can obtain a licence of several units of local self-government if they meet all the conditions stipulated by this Act.

It will be issued to a legal or natural person – tradesman who has a valid licence for taxi transportation in inland road transport at the moment of applying for the licence issue.

¹ Uber is used here only as an example of a typical global computer platform, since there are others as well, such as Lyft, Waymo and the other platforms which operate on a very similar principle.

Especially significant is the provision according to which the City of Zagreb cannot limit the number of issued licences in its region. The past possibility of limiting the number of issued licences was a potential generator of possible abuses.

It is also important to emphasise that the maximum charge for issuing of the licence cannot be higher than one tenth of the average monthly payment of a net income in case of legal persons in the City of Zagreb for the last month for which the data have been published, and which precedes the application for issuing of the licence.

Let us mention also the Article 49 of the Act according to which taxi transport of passengers is carried out in such a way that the carrier performing the taxi transport activity may embark the passenger and start transport only in the area of the City of Zagreb for which they are licenced. If the carrier provides passenger taxi transport service using a taxi-meter, during the provision of the service the taxi-meter has to be switched on, and there has to be a price list in a visible place.

The taxi transport price list is determined independently by the carrier, and it has to contain at least a price per one travelled kilometre. This provision significantly facilitates the market competition among the carriers.

It should also be noted that if the carrier provides the service of passenger taxi transport by means of electronic application where the maximum price and the planned travelling route are visible in advance, the application has to be switched on in the vehicle during the entire time of service provision.

These changes have made the essential liberalization of taxi transport in the Republic of Croatia; they have enabled competition, and it is also possible to use global applications such as UBER. The result is not only the price reduction of the travelling but a much larger usage of taxi services, that have stopped to be an exotic service for the “rich”. Card payment preferred by the advanced models of service provision are certainly favourable from the tax point of view.

With this move, Croatia has significantly liberalized the taxi services, but it does not allow the drivers without a special licence and permit to occasionally perform taxi services (UberPOP) as for instance possible in Norway. [10] Since this service has been restricted in the meantime also in the mentioned Norway, it may be concluded that the Croatian legislator has chosen correctly. [11]

3. MICRO TRANSPORT

According to the Act's Art. 50, para. 9 Contract on the provision of micro transport services may have the character of a contract on the provision of public services. [1]

Therefore, Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road states in the Art. 1. The purpose of this Regulation is to define how, in accordance with the rules of Community law, competent authorities may act in the field of public passenger transport to guarantee the provision of services of general interest which are among other things more numerous, safer, of a higher quality or provided at lower cost than those that market forces alone would have allowed. [5]

Micro transport is a new, special category of passenger transportation in the Republic of Croatia, which is used to try to mitigate the very bad demographic movements in the Republic of Croatia. Thus, the newspaper *Večernji list* published on 23 February 2019 brings a statement made by the demographer Prof. Anđelko Akrapa, Ph.D., the head of the Chair of Demography at the Zagreb Faculty of Economics: “In my opinion, we have now about four million inhabitants since a large number of the emigrated have not unregistered. However, more significant than the number of citizens is the poor age structure of the population in Croatia, a decreasing ratio of the youngsters, up to 14 years of age compared to those older than 65. This is accompanied by difficult economic and social issues and consequences on the pension and health-care system. According to the ratio of the youngsters, it is

to be expected that many schools will have to be closed, which is obvious even without the assessments of the Croatian Bureau of Statistics, since many district schools in rural places have already disappeared.” [12]

It is precisely these smaller rural places in, e.g. Slavonia, Lika or the islands, that need public transport – the majority of the population there are of senior age and lower income and they depend on the public transport. The disappearance of district schools means that they cannot use the legal possibility (Art. 44 of the new Act) according to which the carrier performing special regular passenger transport (usually schoolchildren to and from school, with the part of the contract including a list of passengers) can perform, with a special permit, also the transport of passengers who have not been included in the list of passengers both to a place or from a place where there is no organized regular public passenger transport service. This makes it possible, if there is a carrier who would obtain the appropriate permit, for the citizens from these smaller places to reach the bigger centres at least during the school year. This possibility, as mentioned, exists also now – but the number of places not reached by a school bus is increasing.

Apart from the definition stated in the introduction, micro transport is primarily regulated also by the Article 50 of the new Act. Micro transport can be performed by a carrier owning a licence for passenger transport in inland road transport or a licence for taxi transportation or a licence for the activity of renting a vehicle with a driver or a licence of the Passenger Transport Association, based on the provisions of the decision made by the local self-government about micro transport based on the provision of this Act.

The carrier performs micro transport by vehicles of category M1 or by vehicles of category M2, under the conditions stipulated by the decision of the local self-government on the micro transport. The categories are described in Annex I of the Ordinance on Vehicle Categorization. [13] Accordingly, category M are road motor vehicles that serve for the passenger transport and that have at least four wheels, and they are further divided into:

- Category M1: motor vehicles for passenger transport that apart from the driver’s seat have a maximum of eight (8) seats.
- Category M2: motor vehicles for passenger transport that apart from the driver’s seat have more than eight (8) seats, with the maximum allowed mass not exceeding 5 t.
- Category M3: motor vehicles for passenger transport that apart from the driver’s seat have more than eight (8) seats, with the allowed maximum mass greater than 5 t.

Thus, micro transport involves also the usage of passenger cars and vans up to eight (8) passengers as well as small buses. The person proposing such a solution obviously considered that these vehicles due to lower maintenance costs can be profitable where the profitability of classic vehicles cannot be expected. Moreover, since M1 vehicles require only B category for the drivers (with additional education, according to the Art. 5 of this Act), this allows employment of drivers who do not have D category for buses, and these are at the which are currently deficient and according to the market conditions require much higher salaries.

According to the Art. 50, the carrier performs micro transport in order to meet the transportation demands of the population in rural and poorly inhabited areas, where no public regular passenger transport is organized, according to a schedule adapted to the persons seeking transport. Micro transport is performed on the basis of a contract signed between the transport customer and the carrier, in compliance with the provisions of the decision made by the self-government about micro transport.

The decision of the self-government about micro transport defines the needs for micro transport and the method of covering the transport costs.

The micro transport customer can exclusively be a state authority body, a unit of local or district (regional) self-government, a legal person founded by a state authority body and/or unit of local or

district (regional) self-government and a legal person entrusted by the state authority bodies and/or local or district (regional) self-governments with the organization of micro transport in their respective area based on a special decision or contract. Additionally, if the self-government is not being at the same time the transport customer, it has to provide its written consent to such a contract.

Furthermore, micro transport service provision contract can have the character of a contract on the provision of public services. Micro transport can be organized also on relations with an existing public regular transport on the days when the regular public transport does not operate (e.g. during school holidays, on weekends, holidays, etc.).

Since it has been less than a year since this Act was implemented, it is difficult to say much about the effects in the practice of introducing micro transport.

4. INTEGRATED PASSENGER TRANSPORT

Section V of this Act is titled “Integrated Passenger Transport in Inland Traffic”. According to the Art. 52 of the Act, the service of integrated public passenger transport is a service that includes interconnection of the public passenger transport services within a certain geographic area with a unique information technology service, unique ticket, i.e. tariff system and a unique schedule.

According to Art. 53 of the Act, for more economical and efficient operation of public passenger traffic and in order to increase the quality of the transport service for the users, the operators of the transport service of various kinds of transport can provide services of integrated passenger transport. Further, (Art. 54) the services of integrated public passenger transport, in view of this Act, can be provided:

- a) only within the region of a single district (regional) self-government or a single local self-government, or
- b) in the region of several units of local and/or district (regional) self-government within a certain pilot-region, and
- c) if the operator of the public passenger transport service has a signed contract on the provision of the service of integrated public passenger transport with the competent body, i.e. local competent body.

The contract of the provision of the service of integrated public passenger transport is concluded between the public passenger transport operator and the unit of local, i.e. district (regional) self-government with the consent of the Ministry, in case the Ministry is not at the same time the competent body (Art. 55).

The objectives of such a contract are also defined (Art. 56):

- defining of mutual rights and obligations among operators of passenger public transport service and competent body, i.e. local competent body regarding provision of infrastructural preconditions for service operation;
- determining of the area, i.e. pilot-region of integration;
- determining of the traffic network of lines included in the integration;
- defining of the obligations regarding public service provision;
- defining of quality standard;
- determining of the charge for the provision of the service of public interest; and
- defining of the obligations of delivering data to the competent body, i.e. local competent body on service provision.

Pursuant to Art. 57 of the Act, the obligatory annexes to the Contract on providing the service of integrated public passenger transport include:

- general terms of transport,

- price list and bill of costs of the transport, and
- a unique schedule (in the glossary defined as an act which contains mutually harmonised schedules of different interconnected types of public transport).

Let us mention also Art. 60 of this Act according to which the following is applied to the provision of integrated public passenger transport service:

- a) to the public passenger transport service by road included in the integrated public passenger transport – provisions of this Act that regulate the municipal passenger transport, county passenger transport, inter-county passenger transport and micro transport;
- b) to the public passenger transport service by the sea included in the integrated public passenger transport – provision of the Act that regulates the transport in regular maritime coastal transport;
- c) to the public passenger transport service on inland waterways included in the integrated public passenger transport – provisions of the rules that regulate the transport on inland waterways;
- d) to the public passenger transport service in railway traffic included in the integrated public passenger transport – provisions of regulations that regulate railway transport;
- e) to public urban passenger transport included in the integrated public passenger transport – provisions of this Act that regulate the municipal transport of passengers and provisions of regulations on municipal economy; and
- f) to the issues of the protection of rights of the integrated public passenger transport users – provisions of the regulations that regulate the protection of the consumers' rights and the protection of passenger rights.

The fact is that integrated transport had not been legally restricted until now – it had only not been legally regulated in such detail. The obligatory law is not a “closed structure” like property law, but it recognizes also the contracts that have not been specially regulated by law, and in legal theory these are called non-named (innominate) or atypical legal business activities. [14]

Already, for years Zagreb has been using a combination of a unique ticket for suburban train and bus/tram, as part of the contractual business cooperation of HŽ Passenger Transport and Zagreb Electric Tram (ZET) [15], and on the Croatian islands the local bus transport has been adapted to the ferry transport for decades, (however, separate traffic documents have to be purchased as a rule).

5. CONCLUSION

The new Road Transport Act represents a good example where the legislator follows the technological applications, particularly in the segment of liberalization of taxi transport. Liberalization, apart from reducing the prices, significantly expanding the services, possibilities of facilitated business operation without personal car ownership, also has a direct safety correlation – it is common in Croatia that people going out at night usually (and too often) consume alcohol, and the affordable taxi price, now also with the possibility of simple cost sharing among several users, reduces the number of drunk drivers on the roads. Simply, driving four persons across the city costs even at night tariffs 20-25 kunas per person, so that fewer people will opt for the risk of illegal and dangerous driving under the influence of alcohol. This has been observed when Uber was still operating in the “grey” zone. [16]

Regarding micro transport, it is a welcome novelty useful in more efficient connecting of the parts of the country that had been previously less well connected by public transport. Along with the already mentioned problems and difficulties encountered by the inhabitants of “more remote” places, especially those of senior age, as well as workers who have no possibility of personal car travelling, the benefits of making micro transport as a form of public transport legally possible, are obvious.

As mentioned earlier, integrated transport has been already previously known, but the expansion and detailed legal regulations have certainly contributed to a higher level and modernization of the transport services in the Republic of Croatia. With the modernization of services and connecting of

different branches of passenger transport, Croatia can benefit from the development of this type of transport not only regarding the provision of an easier life for the citizens, but also in promoting tourism which is restricted today only to big tourist resorts.

Naturally, it is not to be expected that the legal regulation can significantly change the negative demographic and other changes because of which certain parts of Croatia stay empty. It can help the existing population and it is certainly welcome, and it can help also to the modern research tourism that is becoming increasingly present, but for the revitalization of Croatia other numerous measures, outside the transport segment, are of great necessity.

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