

Legal framework of the partnership between the Republic of Belarus and the People's Republic of China in the transport sector: status and prospects

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In modern conditions, partnership between the Republic of Belarus and the People's Republic of China in the transport sector is acquiring strategic importance. In this regard, this article is devoted to legal aspects in the context of deepening Belarusian-Chinese cooperation in the transport sector. In particular, the features of the legal framework of bilateral relations in the field of transport, based on strategic documents regulating transport policy, have been identified. Special attention is paid to the legal mechanisms for the implementation of joint projects within the framework of the Belt and Road initiative. In turn, the global digital transformation necessitates the improvement and development of legal regulation of Belarusian-Chinese cooperation in the transport sector.

Keywords: Belarusian-Chinese cooperation, legal regulation, strategic planning, international treaties, transport sector.

В современных условиях партнерство между Республикой Беларусь и Китайской Народной Республикой в транспортной сфере приобретает стратегическое значение. В этой связи, настоящая статья посвящена правовым аспектам в контексте углубления белорусско-китайского сотрудничества в транспортной сфере. В частности, выявлены особенности договорно-правовой базы двусторонних отношений в сфере транспорта, основанные на стратегических документах, регулирующих транспортную политику. Отдельное внимание уделено правовым механизмам реализации совместных проектов в рамках «Инициативы пояса и пути». В свою очередь, глобальная цифровая трансформация обуславливает необходимость совершенствования и развития правового регулирования белорусско-китайского сотрудничества в транспортной сфере.

Ключевые слова: белорусско-китайское сотрудничество, правовое регулирование, стратегическое планирование, международные договоры, транспортная сфера.

The Republic of Belarus (hereinafter referred to as Belarus) and the People's Republic of China (hereinafter referred to as China) established diplomatic relations in 1992. As long-standing partners, Belarus and China are developing multilateral cooperation in various fields, including transport. Cooperation is developing most actively in the economic sphere. Both countries strive to develop their own economies and actively use bilateral trade and economic cooperation to achieve this goal. For Belarus, China is one of its main foreign economic partners in Asia. Located in the center of Europe, Belarus is attractive to China primarily due to its geographical location, which allows for efficient international transportation [1, p. 8]. At the same time, we agree with M.V. Myasnikovich, who points out that «in the context of building economic relations between the Republic of Belarus and China, the geopolitical position of that country must be taken into account... With this in mind, it is necessary to work to defend national interests when concluding Chinese-Belarusian agreements and contracts...» [2, p. 7]. In this regard, the study of the legal framework for Belarusian-Chinese cooperation in the transport sector is of scientific and practical interest, as a basis for expanding the transport and logistics potential of the two states. In terms of the problems of our study, the works of both national (M.V. Myasnikovich, V.N. Shimov, A.A. Bykov, E.S. Danilyuk, S.G. Zalivako, T.S. Vertinskaya, O.D. Vorobyova, V.O. Serebryakov, O.A. Khotko and others) and foreign authors (S.V. Ryazentsev, A.A. Nechay, Wang Guan, Li Gang, etc.) are of particular interest. At the same time, there is insufficient scientific elaboration of issues related to the legal regulation of the development of Belarusian-Chinese partnership in the transport sector on a bilateral basis, given that transport services are the most significant item of service export from Belarus to China. In addition, in accordance with the National Strategy for Sustainable Development of the Republic of Belarus for the period up to 2040, increasing comprehensive cooperation with China is a key area [3, p. 126]. It should be noted that integration processes will be complemented by cooperation within the framework of the alignment of the Eurasian Economic Union and China's Belt and Road initiative, in particular through the alignment of Eurasian transport corridors with the Belt and Road logistics system, as well as participation in new regional formats with foreign states. [3, p. 127]. All of the above outlined the aim of this article, that is to determine the legal framework of the partnership between the Republic of Belarus and the People's Republic of China in the transport sector.

Ensuring the reliable and safe operation of the transport and logistics complex is a pressing and significant socio-economic task, as it allows not only to increase the financial and economic potential of the state, but also to ensure the preservation of the life and health of its citizens, increasing the well-being of society [4, p. 145]. We believe that the implementation of this task depends, among other things, on the level of development of Belarusian-Chinese partnership in the transport sector, based both on the national legislation of both states and on the legal framework of bilateral relations. In support of this, we agree with V.O. Serebryakov, who points out that a striking example of close attention to the development of Belarusian-Chinese cooperation was the signing of Directive № 9 «On the Development of Bilateral Relations between the Republic of Belarus and the People's Republic of China» by the President of the Republic of Belarus A.G. Lukashenko on December 3 in 2021 [5, p. 55]. The document notes that the development of a comprehensive strategic partnership with China meets the long-term interests of our state, is comprehensive in nature, and contributes to the expansion of the entire spectrum of Belarusian-Chinese cooperation [6]. We agree that, in a short period of time, cooperation between Belarus and China has been raised to the highest level of bilateral relations – «all-weather comprehensive strategic partnership» [5, p. 54]. In particular, the Joint Declaration of the Republic of Belarus and the People's Republic of China on the establishment of all-weather and comprehensive strategic partnership in 2022 provides for: joint active use of the transit potential of Belarus through the expansion of cooperation in the transport and logistics sector, including within the framework of the implementation of container train projects in the China-Europe-China and China-Belarus-China routes; development of cross-border road and rail corridors; ensuring the safe and uninterrupted movement of China-Europe-China trains; improving the efficiency of customs clearance at key railway ports; expansion of geography and increase in the number of flights between the countries [7]. Furthermore, the Joint Development Plan of the Republic of Belarus and the People's Republic of China, based on the alignment of the two countries' medium- and long-term strategic programs (hereinafter referred to as the Plan), identifies transport logistics as the primary vector of shared interests for Belarus and China. It should be noted that one of the Plan's key objectives is to promote Belarusian-Chinese cooperation in transport and logistics infrastructure. The implementation of this objective, in particular, envisions the conclusion of a number of agreements aimed at developing the transport sector [8].

It is obvious that the successful implementation of the goals and objectives stated in the aforementioned documents in the transport sector depends on the level of improvement and development of legal regulation of bilateral cooperation between the Republic of Belarus and the People's Republic of China. In this sense, we agree with the position of G.A. Vasilevich regarding the fact that the law should contribute to the achievement of the goals of economic, political and social development, i. e. be effective, and also ensure the integrity of legislation [9, p. 1]. While it is not the aim to examine the entire scope of bilateral agreements between Belarus and China, we nevertheless note that the legal framework for partnership between Belarus and China was formed in stages, covering key areas, including transport. Today, there are more than 80 bilateral international agreements in force between states, including about 40 interstate and intergovernmental ones. In turn, the international treaties of the Republic of Belarus include: the interstate agreement; the intergovernmental agreement; the international treaty of interdepartmental nature [10, Art. 1]. Thus, the interstate agreement is concluded on behalf of the Republic of Belarus with a foreign state (or states), an international organization (or organizations), or another entity (or entities) with the right to conclude international treaties [10, Art. 1].

Within the framework of the research, it is worth mentioning the Treaty of Friendship and Cooperation between the Republic of Belarus and the People's Republic of China of 2015, to which the parties are the Republic of Belarus and the People's Republic of China, respectively. Already at that time, the provision on expanding partnership in the transport sector and creating favorable conditions for this, based on both national legislation and bilateral agreements and international multilateral treaties, was included in Article 8 of the said treaty [11]. With regard to the intergovernmental agreement, the Government of the Republic of Belarus, when concluding international treaties, can act in two capacities: concluding a treaty on behalf of the Republic of Belarus and independently, being a party to international treaties. [10, Art. 1]. As E.F. Dovgan notes that in fact, in the first case, we are talking about the conclusion of an interstate agreement... Intergovernmental agreements of the Republic of Belarus define governments as parties to such a treaty, which, in principle, raises the question of whether intergovernmental agreements are international treaties within the meaning of the Vienna Convention.

At the same time, a selective analysis of the treaties concluded by the Government of the Republic of Belarus with other states in various spheres of activity shows that all such agreements do not concern formal cooperation between governments, but contain specific rights and obligations for individuals and legal entities in the territory of the states of the parties. Moreover, such agreements establish the bodies authorized to implement the treaty's provisions, and many provisions are self-executing. Furthermore, the vast majority of intergovernmental agreements do not enter into force upon signing, but require the implementation of intrastate procedures, similar to interstate agreements [12, p. 76–77]. As an example, we note the Agreement between the Government of the Republic of Belarus and the Government of the People's Republic of China on air traffic of 1995 [13], which, in particular, enshrines one of the obligations of the contracting parties to protect the safety of civil aviation from acts of unlawful interference, as an integral part of this Agreement (Art. 14, par. 1).

One more example is the Agreement between the Government of the Republic of Belarus and the Government of the People's Republic of China on international road transport of passengers and goods of 2019 (hereinafter referred to as the Agreement) [14]. Article 16 of the Agreement establishes the authorized bodies, namely: on the Belarusian side – the Ministry of Transport and Communications of the Republic of Belarus; on the Chinese side – the Ministry of Transport of the People's Republic of China and its authorized bodies in the provinces. The Agreement also establishes the rights and obligations of individuals and legal entities acting as «carriers» authorized to carry out international road transport (Article 2). The entry into force of the Agreement requires the necessary domestic procedures (Article 20).

As for the international agreement of interdepartmental nature, they are, as a rule, concluded on special issues of international cooperation, in connection with which it is the competent government bodies that can most fully and expertly assess the necessity, goals and objectives of the negotiations being conducted [15, p. 152]. As an example, we cite the Agreement between the State Customs Committee of the Republic of Belarus and the General Administration of Customs of the People's Republic of China on mutual recognition of the authorized economic operators program of the Republic of Belarus and the program of the People's Republic of China on the management of bona fide enterprises of 2019, aimed at strengthening the secure supply chain of goods from sender to recipient [16].

In the context of this research, it is also worth pointing out the role of soft law acts. Although they are advisory in nature, soft law acts can have a significant impact on the norm-setting process in Belarusian-Chinese relations in the transport sector. Based on the analysis of the provisions of declarations, plans, and memoranda on Belarusian-Chinese partnership, it is worth highlighting their following functions: creating political commitments for Belarus and China in the transport sector, which, nevertheless, are often fulfilled by both parties; soft law is an important element in the process of creating international agreements aimed at bilateral cooperation between Belarus and China in the field of transport. Such acts of soft law include: Memorandum of Understanding between the Ministry of Transport and Communications of the Republic of Belarus and the Ministry of Communications of the People's Republic of China on cooperation in the field of automobile transport, inland waterway transport and construction of related infrastructure of 2009; Memorandum of Understanding between the Customs Authorities of the Republic of Belarus and the People's Republic of China on Strengthening Partnership for Expedited Customs Operations in Relation to Goods in Trans-Eurasian Rail Container

China's Belt and Road initiative (hereinafter referred to as BRI) deserves special attention within the framework of the topic under study. According to E.D. Salmygina, it was this initiative that marked a turning point in the development of relations between Belarus and China [17, p. 38]. In 2013, the term «Belt and Road», first came into the spotlight as China's masterplan initiative to revive the Ancient Silk Road and was announced by Chinese President Xi Jinping. The BRI includes two major parts – the New Silk Road Economic Belt and the 21st-Century Maritime Silk Road (hereinafter referred to as the Belt and the Road respectively). Both represent a network of ports, railways, roads, pipelines, and utility grids connecting China with Central Asia, West Asia, and parts of South Asia, Europe, and Africa. The aims of the BRI are: to promote connectivity of Asian, European and African continents via land, sea, and air; to establish and strengthen regional cooperation and partnerships among the countries along these routes; to facilitate the flow of economic resources and integration of markets (cit. by [18, p. 2]).

BRI allowed China to expand its contacts with many foreign countries, among which Belarus occupies an important place. As Xi Jinping noted: «Belarus can rightfully be considered one of

China's most important partners in the Eurasian region in terms of major joint projects. Joint implementation is underway on dozens of major initiatives in the areas of communications, transport, energy, and infrastructure construction» [19, p. 231].

It is significant that the Republic of Belarus was one of the first countries in the world and the first in Europe to support the Chinese leadership's initiative to implement the BRI. We agree with N.Yu. Veremeyev, who asserts that «for Belarus, participation in the Belt and Road project addresses the challenges of accelerating the technological modernization of the economy, creating high-tech industries, intensifying and significantly expanding exports, and increasing the efficiency of the country's transport and logistics potential.

Belarusian-Chinese cooperation has acquired particular significance in the context of deteriorating relations with Western countries. Cooperation with Beijing allows the Belarusian state to maintain the principle of multi-vector foreign policy» [20, p. 20]. Of particular interest to our country is the «New Silk Road Economic Belt» – land infrastructure corridors that connect China with other countries. Thus, in order to implement the agreements on the promotion of the joint construction of the «New Silk Road Economic Belt» by the two states within the framework of the joint communiqué of the heads of the two states in 2016, the Governments of the Republic of Belarus and the People's Republic of China signed the Agreement on the development of international freight transport and cooperation in the implementation of the concept of construction of the Silk Road Economic Belt in 2017 (hereinafter referred to as the Agreement) [21]. In the preamble to the Agreement, the main intentions of the contracting parties within the «New Silk Road Economic Belt» are: stimulating and developing an international integrated intermodal transport and logistics system in line with the continuous deepening of socio-economic relations on the Eurasian continent and globally; promoting cooperation in the field of transport infrastructure; creating conditions for the development of an economical, safe, and efficient international transport route [21].

Belarus and China also identified key goals aimed at: strengthening cooperation in the transport and logistics sector; continuously improving transport infrastructure; increasing the competitiveness of the international transport route between Europe and Asia. In turn, the interaction of the contracting parties is based on such principles as equality and mutual benefit in accordance with international law, domestic laws, regulations and policies [21, Art. 1]. The following key areas of cooperation were identified: 1. improving rail, road, air and other infrastructure; 2. developing cost-effective, safe and efficient international freight transport between Europe and Asia; 3. facilitating access of the Parties' enterprises to the international market for rail and road transport services; 4. harmonizing norms and technological standards in the field of logistics and creating favorable conditions for international freight transport; 5. promoting the development of warehouse logistics [21, Art. 2]. The achievement of the set goals and the implementation of the stated objectives can be judged by the fact that Belarus and China are currently actively cooperating in the field of automobile, rail and air transport. As noted by A.A. Lyakhnovich, the Minister of Transport and Communications of the Republic of Belarus, «developing cooperation in the field of transport serves as a reliable foundation for further increasing trade volumes between the countries. Specifically, the implementation of the strategic partnership strategy for the near future includes steps to strengthen transport and logistics ties, expedite the processing of transported goods, and develop the potential for transit shipments through Belarus» [22].

Despite the fact that the inclusion of the Republic of Belarus in the system of international transport corridors (hereinafter referred to as ITC) deserves special attention from both scientific and practical points of view, we nevertheless note that in the system of land corridors of the «New Silk Road Economic Belt», the Republic of Belarus participates in two routes: Northern Corridor № 1 and Northern Corridor № 2, the basis of which is rail transport, along which the bulk of land transit cargo moves. At the same time, against the backdrop of the developing digital transformation of logistics (Logistics 4.0), the issue of our state's inclusion in the ecosystem of digital transport corridors is becoming relevant, in the context of the «Digital Silk Road» concept put forward by the Chinese government. In this regard, the two states are paying increasing attention to improving and developing legal regulation of Belarusian-Chinese partnership in the transport sector in the context of digital transformation. We believe that the memorandum of understanding on strategic cooperation in the field of information and communication technologies concluded on August 22 in 2024, between the Ministry of Communications and In-

formatization of the Republic of Belarus and the Ministry of Industry and Information Technology of the People's Republic of China will facilitate the further conclusion of bilateral international agreements aimed at legally regulating the digitalization of freight transportation in order to increase the capacity of international transport corridors, develop and adopt uniform standards for electronic documents, and establish a unified methodology for information exchange.

In conclusion, it is worth mentioning the China-Belarus industrial park «Great Stone» – a strategic and largest-scale bilateral cooperation project. The project is being developed within the framework of intergovernmental Belarusian-Chinese partnership and signed intergovernmental documents [23]. According to Article 1 of the Agreement between the Government of the Republic of Belarus and the Government of the People's Republic of China on the China-Belarus Industrial Park of 2012, the logistics industry acts as a complementary [24]. At the same time, the industrial park «Great Stone» occupies a key position on the Northern Trade Route of the New Silk Road, one of the most important in the current geopolitical situation, providing duty-free access to the Eurasian market and being located close to the European Union [25, p. 149].

Thus, the development of the legal framework for Belarusian-Chinese partnership in the transport sector at the present stage indicates, as O.A. Khotko rightly notes, that «interstate and international agreements concerning the functioning of transport constitute a significant factor in the development of national transport legislation, since the Republic of Belarus recognizes the priority of generally recognized principles of international law and ensures that its legislation complies with them» [26, p. 155–156]. Currently, the legal framework for Belarusian-Chinese partnership in the transport sector is characterized by comprehensive approach.

The conducted comparative legal analysis shows that legal regulation of Belarusian-Chinese partnership in the transport sector is implemented at all three levels: interstate, intergovernmental, interdepartmental. At the same time, special attention is paid to soft law instruments as a tool for shaping future legal obligations. However, the current development of the legal framework between the two states requires improvement and adaptation based on digitalization processes in transport and the integration of China's Belt and Road initiative with the Republic of Belarus, as a member state of the Eurasian Economic Union. It is significant that a draft of a new Directive on the development of relations with China is being prepared, which should be «as specific as possible, digitalized, with managers responsible for the implementation of results and plans, and, moreover, with annual monitoring» [27]. This clearly demonstrates that the national strategy of the Republic of Belarus serves as a link between the political intentions of the two states regarding joint activities in the field of transport development and their consolidation in the bilateral legal framework.

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