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## PASAŻER JAKO PODMIOT STOSUNKÓW ADMINISTRACYJNO-PRAWNYCH W ZAKRESIE TRANSPORTU

**Ivan Holosnichenko**

*doktor nauk prawnych, profesor, Zasłużony Prawnik Ukrainy,  
Wicedyrektor*

*Institutu Własności Intelektualnej i Prawa  
Narodowego Uniwersytetu „Odeska Akademia Prawnicza” (Odessa, Ukraina)*

*ORCID ID: 0000-0001-6814-8683*

*golosnichenko@ukr.net*

**Rustam Ahakarian**

*aspirant*

*Narodowego Uniwersytetu „Odeska Akademia Prawnicza” (Odessa, Ukraina),*

*naczelnik Pierwszego Wydziału Śledczego*

*Urzędu Terytorialnego Państwowego Biura Śledczego z siedzibą w mieście Mikołajów (Mikołajów, Ukraina)*

*ORCID ID: 0000-0003-0774-7660*

**Adnotacja.** Powszechnie uznaje się w naukach administracyjnych i prawnych za podmioty prawa administracyjnego osób fizycznych, a wśród nich obywateli Ukrainy, cudzoziemców, bezpaństwowców. Jednak osoby fizyczne mają nie tylko ogólny status administracyjno-prawny, w zależności od ich klasyfikacji, zwłaszcza od rodzajów świadczenia usług na ich rzecz (usługi edukacyjne – studenci, usługi transportowe – pasażerowie itp.), pod ich wpływem uzyskują specjalny status administracyjno-prawny. Zabezpieczenie praw i wolności osoby w dużej mierze zależy od uregulowania prawnego relacji związanej właśnie ze specjalnym jej statusem, w naszym przypadku statusem prawnym pasażera. Pomimo przeważnie cywilnoprawnego charakteru relacji pasażerów z przewoźnikiem, część tych relacji podlega jednak prawu administracyjnemu. W artykule zaproponowano wariant praw i obowiązków pasażerów o charakterze administracyjno-prawnym, które należy ustalić w przepisach regulujących stosunki prawne w transporcie wodnym, w celu ujednoczenia zasad korzystania z transportu poprzez zatwierdzenie przez rząd odpowiednich standardowych zasad, na podstawie których władze lokalne muszą przyjąć takie zasady, biorąc pod uwagę cechy lokalne. Konieczne jest przestrzeganie przepisów ustawy o podziale uprawnień przy podejmowaniu zasad korzystania z metra. W przygotowaniu artykułu wykorzystano ogólnologiczne metody poznania naukowego, takie jak analiza, synteza, abstrakcja, przewidywanie, uogólnianie, idealizacja, indukcja, dedukcja, analogia, metoda porównawcza.

**Słowa kluczowe:** uprawnienia, stosunki, prawa i obowiązki, pojazd, zasady świadczenia usług, ujednoczenie zasad korzystania z transportu.

## PASSENGER AS A LEGAL PERSON OF ADMINISTRATIVE-LEGAL RELATIONS IN THE TRANSPORT AREA

**Ivan Golosnichenko**

*Doctor of Law, Professor, Honored Lawyer of Ukraine,  
Deputy Director*

*Institute of Intellectual Property and Law  
of National University “Odessa Law Academy” (Odessa, Ukraine)*

*ORCID ID: 0000-0001-6814-8683*

*golosnichenko@ukr.net*

**Rustam Agakaryan**

*Postgraduate Student*

*National University “Odessa Law Academy” (Odessa, Ukraine),  
Head of the First Next Department*

*Territorial Administration of the State Bureau of Investigation, located in the city of Mykolaiv (Mykolaiv, Ukraine)*

*ORCID ID: 0000-0003-0774-7660*

**Abstract.** It is generally accepted in the science of administrative law to consider individuals and, among them, citizens of Ukraine, foreigners, stateless person as legal persons of administrative law. However, individuals possess not only a general administrative legal status, depending on their classification, especially on the types of services rendered thereto (educational services – students, transportation services – passengers, etc.), being under an influence thereof they acquire a special administrative legal status.

Ensuring human rights and freedoms largely depends on the legal regulation of relations associated with the special status, in our case it is the legal status of a passenger. Despite the predominantly civil nature of the relationship between passengers and a carrier, the part thereof is still governed by administrative law. The article proposes a variant of rights and responsibilities of passengers of administrative legal nature, which should be enshrined in regulations governing water transport, to unify the rules of transport, in particular the adoption by the government of the relevant Model Rules, based on which local governments should adopt such rules taking into account regional peculiarities. One should comply with the law on power distribution in the course of adoption of the Rules on subway usage. During preparation of this article, the general methods of scientific knowledge, such as analysis, synthesis, abstraction, prediction, generalization, idealization, induction, deduction, analogy, comparative method, were used.

**Key words:** powers, legal relations, rights and responsibilities, vehicle, rules for services provision, unification of rules for transport usage.

## ПАСЖИР ЯК СУБ'ЄКТ АДМІНІСТРАТИВНО-ПРАВОВИХ ВІДНОСИН У СФЕРІ ТРАНСПОРТУ

*Іван Голосніченко*

*доктор юридичних наук, професор, заслужений юрист України,  
заступник директора*

*Інституту інтелектуальної власності та права*

*Національного університету «Одеська юридична академія» (Одеса, Україна)*

*ORCID ID: 0000-0001-6814-8683*

*golosnichenko@ukr.net*

*Рустам Агакарян*

*аспірант*

*Національного університету «Одеська юридична академія» (Одеса, Україна),*

*начальник першого слідчого відділу*

*Територіального управління Державного бюро розслідувань,*

*розташованого у місті Миколаєві (Миколаїв, Україна)*

*ORCID ID: 0000-0003-0774-7660*

**Анотація.** В адміністративно-правовій науці вважати суб'єктами адміністративного права прийнято фізичних осіб, зокрема, громадян України, іноземців, осіб без громадянства. Однак фізичні особи мають не тільки загальний адміністративно-правовий статус залежно від їхньої класифікації, особливо від видів надання їм послуг (освітніх послуг – студенти, послуг на перевезення – пасажирів), перебуваючи під впливом яких вони набувають спеціального адміністративно-правового статусу. Забезпечення прав і свобод людини здебільшого залежить від правової урегульованості відносин, пов'язаних саме з її спеціальним статусом, у нашому випадку правовим статусом пасажирів. Не дивлячись на здебільшого цивільно-правовий характер відносин пасажирів із перевізником, їх частина все ж регулюється адміністративним правом.

У статті запропоновано варіант прав та обов'язків пасажирів адміністративно-правового характеру, які потрібно закріпити в нормативних актах, що регулюють правовідносини на водному транспорті, для уніфікації правил користування транспортом і прийняття урядом відповідних Типових правил, на основі яких органи місцевого самоврядування мають приймати такі правила з урахуванням місцевих особливостей. Необхідно дотримуватися норм закону щодо розподілу повноважень при прийнятті Правил користування метрополітемом. При підготовці статті використовувалися такі загально-логічні методи наукового пізнання: аналіз, синтез, абстрагування, прогнозування, узагальнення, ідеалізація, індукція, дедукція, аналогія, порівняльний метод.

**Ключові слова:** повноваження, відносини, права та обов'язки, транспортний засіб, правила надання послуг, уніфікація правил користування транспортом.

**Introduction.** The administrative-legal status of an individual has its own specifics depending on the type of the person, including the services provided thereto by authorized persons. There is a relationship in which the passenger is the subject within it and they must be perfectly regulated, including the rules of administrative law. The issue of administrative-legal regulation of transport relations in Ukraine was studied in the works of O.I. Antonyuk, V.K. Gizhevskiy, I.P. Golosnichenko, A.M. Podolyaka, V.Y. Razvadovskiy, M.L. Shelukhin and others. However, the legal status of the passenger in these works was studied only in fragments.

**Main part. The purpose of the research** is to study the administrative-legal basis of the legal status of the passenger, ensuring rights and implementation of responsibilities thereof related to the provision of transportation services by means of various types of transport. Therefore, the objectives of this research are to determine the administrative-legal status of the passenger, to distinguish it from the legal status of the civil nature, to identify conflicts in legislation and regulations governing the legal status of passengers on various types of transport. During preparation of this article, the general methods of scientific knowledge, such as analysis, synthesis, abstraction, prediction, generalization, idealization, induction, deduction, analogy, comparative method, were used.

**Presentation of the main research material.** The law transforms a participant in social relations into a legal person of legal relations. Such a person is primarily an individual (citizen, foreigner, stateless person), as well as

an organized collective entity (legal entity of private law, legal entity of public law, the state as a whole) (Vengerov, 2000: 242). The legal persons of administrative-legal relations are no exception. All the above specified persons are involved in this legal relationship.

The legal persons of administrative-legal relations include citizens of Ukraine, foreign citizens, stateless persons, refugees, executive authorities, local governments, officials of these bodies, legal entities (enterprises, institutions, establishments, companies of all forms provided by the Civil Code of Ukraine (Civil Code of Ukraine, 2003), political parties (On political parties in Ukraine, 2001), public associations (On public associations, 2012). These are all ones endowed by the rules of administrative law with the scope of rights and responsibilities in the field of public administration, provision of administrative services, relations of administrative responsibility and when it comes to resolving relevant conflict situations – administrative-jurisdictional relations.

Some of the legal persons are empowered to carry out executive and administrative activities, others participate as either the object of governance, or the person applying for administrative service, the subject of an administrative offense, the victim, a witness in the case of an administrative offense, administrative case in jurisdictional relations, or another participant in administrative proceedings. Administrative courts of various instances, as well as judges of the administrative court, which considers and decides administrative cases alone, the panel of judges, other defined by the Code of Administrative Procedure administrative court, are the actors of the relations of administrative proceedings as legal persons of administrative-procedural relations (Code of Administrative Procedure, 2005, Art. 4). Each legal person is characterized by an external distinction, endowed with appropriate rights and responsibilities, thus being able to participate in administrative-legal relations. It acts formally as a separate person, able to develop, express and exercise the will thereof as a participant in specific regulatory, administrative-processual or procedural relations in accordance with its rights and responsibilities.

By means of examining the administrative-legal relations in the field of transport, one can be determined that among the individuals – legal persons of such relations, the passengers prevail. The distinction of different legal persons of legal relations among individuals has a great social and practical meaning. Any given category of such legal persons may enter into deeds diverse in scope and content and hold distinctive responsibilities. For example, foreign citizens have, as a rule, equal rights in property turnover with citizens of Ukraine, whereas administrative-legal relations often involve legal persons that are not eligible, for instance, for public service, service in the Armed Forces of Ukraine. Likewise, there are other restrictions on the rights of foreign citizens in modern Ukraine. Certain ones are also imposed on stateless persons and refugees. Unlike other individuals, an individual-passenger possesses the same rights and obligations in administrative-legal relations regardless of the citizen (patrial) of which state he is, even he is a stateless person.

Despite the predominantly civil nature of the relationship between passengers and the carrier, part of this relationship is still governed by administrative law. Transportation is carried out under the agreement of such service. According to Article 901 of the Civil Code of Ukraine (hereinafter, the CCU) “Under the service agreement, one party (contractor) undertakes on behalf of the other party (customer) to render a service that is consumed in the process of performing a certain action or carrying out certain activities, and the customer undertakes to pay the contractor, unless otherwise provided for by the agreement”. Moreover, this provision applies to all service agreements (Civil Code of Ukraine, 2003, Art. 901).

Therefore, the passenger’s civil obligation is to pay for the transportation service and the carrier’s duty is to deliver the passenger to a designated destination. The civil rights of the passenger are also determined by the CCU. Article 911 thereof stipulates that “a passenger has the right to 1) receive a seat in the vehicle in accordance with the purchased ticket; 2) carry one child under the age of six with him / her free of charge without the right to take a separate place; 3) buy children’s tickets for children aged six to fourteen at a reduced price; 4) carry a hand luggage free of charge within the rules established by the transport codes (statutes); 5) make no more than one stop on the road with an extension of travel documents (tickets) validity for no more than ten days, and in case of illness, for the entire period of illness; 6) cancel the trip, return the ticket and refund the full or partial cost of the ticket – depending on the ticket return term in accordance with the rules established by the transport codes (statutes); 7) receive complete and timely information about the time and place of the vehicle departure on the route specified in the transport document (ticket) (Civil Code of Ukraine, 2003, Art. 911). Laws on the relevant type of transport provide for other rights for the passenger.

In the transport area, additionally to rights defined in the CCU, passengers are holders of the administrative-legal nature rights and responsibilities. The legislature has enshrined that such rights and responsibilities are provided for in special rules approved by the government or local governments. For example, Clauses 15 and 16 of Article 35 of the Law of Ukraine “On Road Transport” established that “the rules for the provision of passenger road transport services are approved by the Cabinet of Ministers of Ukraine. The rules for the use of urban passenger road transport are approved by the relevant local government body. They determine the order of travel and payment therefor, the rights and obligations of passengers, as well as the relationship between carriers and passengers in the course of transport services provision, taking into account the peculiarities of transport infrastructure and the availability of an automated fare accounting system” (On road transport, 2001).

At the same time, the Law of Ukraine “On Urban Electric Transport” also determined the right of local governments to approve the relevant rules. Clause 8 of Article 4 thereof enshrined that “the rules for the use of urban electric transport are approved by the relevant local government body. They determine the order of travel and payment therefor, the rights and obligations of passengers, as well as the relationship between carriers and passengers in the course

of transport services provision, taking into account the peculiarities of transport infrastructure and the availability of an automated fare accounting system”.

The current Rules for the provision of passenger road transport services were approved by the Resolution of the Cabinet of Ministers of Ukraine, dated of February 18, 1997 № 176. The approved rules provide passengers with rights and obligations, including administrative-legal ones. For example, a taxi passenger has the right to require the driver to comply with traffic rules, and he is obliged not to allow actions that endanger the safety of transportation and traffic and not to smoke in the cab (Rules for the provision of passenger road transport services: 1997: 156–157).

Modern Rules for the use of urban passenger transport are approved by local governments of those areas where such vehicles render appropriate transportation services. For example “Rules on usage of the urban land passenger transport of the city of Kyiv” approved by the decision of the Kyiv City Council, dated of February 28, 2019 № 164/6820. This decision, among others, establishes a number of rights and obligations, which at their essence are administrative-legal relations, forming in the area of the urban land transport in Kyiv (Rules of use of the Kyiv metro, 2019).

Evidently, it is a comprehensive statutory instrument which includes the rules of various branches of law, however it contains certain number of rules of the administrative law realm. This legal act distinguishes the legal personality of passengers in a separate fifth section, which is respectively called “Duties and rights of passengers”. The section includes, in addition to the right to passenger safety and obligations to follow the rules of boarding and disembarking, the special rights that are granted to special categories of persons. It explicitly states: “Persons with disabilities and other low-mobility people have the right for free transportation of technical and other means of rehabilitation intended for personal movement (wheelchairs, sticks, crutches, walkers, etc.), as well as guide dogs that accompany visually impaired people” (Rules of use of the Kyiv metro, 2019). This section provides for prohibitive rules of law, which impose administrative restraint measures on passengers: a prohibition on the driver distracting while the vehicle is moving; being in the driver’s cab; smoking in the interior of the vehicle; disturbing of the public order.

The legal personality of a passenger in Vinnytsia city is defined in more detail – there are certain rules that are not provided for in the decisions of other local councils. For example, Paragraph 7,6 of the Rules for the use of public and electric public transport in the city of Vinnytsia and settlements that are part of the Vinnytsia City United Territorial Community, provides that “Passenger spacing at the Stop should be no closer than 0,5 m to the edge of the sidewalk. Passengers are required to wait for the vehicle on the sidewalk, landing area and in case of their absence on the sidewalk, without creating obstacles to traffic” (Rules for the use of public and electric public transport in the city of Vinnytsia, 2020).

Of course, the rules for the use of public and electric public transport may contain rules of law that consider the specifics of the settlements and provide for the relevant rights and obligations arising therefrom. That is why the legislator established the right of local councils to approve such rules. However, the analysis of the rules of the public and electric public transport usage reveals that the differences in the regulation of the passenger legal status are caused mainly not by the peculiarities of these settlements, but by subjective reasons and depend on those who designed such rules, deputies of local councils and city heads.

In 2006, an attempt to unify the rules for the use of trams and trolleybuses in the cities of Ukraine was made. The following rules were adopted by the Order of the Ministry of Construction, Architecture and Housing of Ukraine dated 09.10.2006 № 329 (Rules for the use of trams and trolleybuses in the cities of Ukraine, 2006). The very adoption thereof contradicted Clause 8 of Article 4 of the Law of Ukraine “On Urban Electric Transport”, which as already indicated herein, provided the right to approve such rules to local governments. Given the illegality of the adoption of the above rules, the Ministry of Regional Development, Construction and Housing of Ukraine abolished them by its Order dated 23.10.2017 № 277 (On recognizing as invalid the order of the Ministry of Construction, Architecture and Housing of Ukraine of October 9, 2006, № 329, 2017).

In my opinion, in order to bring the rules of use of public and electric public transport of the Cabinet of Ministers of Ukraine to uniformity, it would be expedient to adopt Standard eponymous rules, on the basis of which local councils could adopt relevant local regulations, governing the use of road and electric transport of general purpose. The necessity of Standard rules of usage adoption is caused by the existence of laws on various types of transport and requirements thereby to local governments to approve the rules of road and electric transport usage, each type of transport separately. In general, it would be expedient to transfer the rule-requirement to local governments to adopt “Rules for the use of urban road and electric land transport of general purpose” to the Law of Ukraine “On Transport”.

Separately in the law on urban electric transport one would be necessary to authorize local governments to adopt rules for the subway usage. Currently, there are three operating subways in Ukraine, in Kyiv, Kharkiv and Dnipro (In which cities of Ukraine is there a subway, 2020). However, at the project level there is also the Lviv Metro, the design of which was envisaged in 1960, when “plans for the construction of a high-speed partially underground tram were included in the promising master plan of Lviv” (Lviv metro: myths and reality, 2020). The first ground area was built in 1987. After the construction of the first ventilation shaft, the buildings closest thereto were damaged, after which the construction of the subway was preserved. The classic metro was envisaged in 1990 in the metro construction program in Ukraine and the general plan of Lviv for 2010-2025 provides for the construction of lightweight subway lines (“Radan” system) (Lviv metro: myths and reality, 2020).

Currently, the rules for the subway usage have been adopted for Kyiv, Kharkiv and Dnipro. At that, the adopting bodies here are different ones. In Kyiv, the Rules for the Use of the Kyiv metro were adopted by the decision of the Kyiv City

Council on November 12, 2019 (Rules of use of the Kyiv metro, 2019). In Kharkiv, the Rules of use of the Kharkiv metro were approved by the decision of the Kharkiv City Council of September 20, 2017 № 787/17 “On approval of the rules of use of urban electric transport and the introduction of an automated fare accounting system” (On approval of the rules for the use of urban electric transport and the introduction of an automated fare accounting system, 2019).

Previously, the Rules of Use of the Kharkiv metro, approved by the Order of the Ministry of Transport and Communications of Ukraine dated August 10, 2004 № 712, were in force (Rules of use of the Kharkiv metro, 2004). Moreover, for almost eight months there had been two regulations governing the use of the subway in Kharkiv, as the Order of the Ministry of Transport and Communications was revoked only on May 7, 2018 (On recognizing as invalid the order of the Ministry of Transport of Ukraine of August 10, 2004 № 712, 2017).

In addition, the Rules approved by the Kharkiv City Council were legitimate at that time. Clearly, that separate legal persons considered the rules approved by the ministry to be in force, though it was an executive body that implemented transport and communications policy, still it was the central executive body. The versions of the Rules of Use of Kharkiv metro adopted by the local government body and the relevant Ministry were not identical, often separate rules governing the same obligations of passengers contradicted each other.

Thus, the Order of the Ministry of Transport stated that passengers are obliged to “Use the door “Entrance” when entering the station and “Exit” – when leaving it” (Rules of use of the Kharkiv metro, 2004: 4.1.5.), whereas the decision of the Kharkiv City Council contained the following rules respectively, to use the door “Entrance”, entering the station and “Exit”, when leaving it, not to linger, be careful and keep the door (On approval of the rules for the use of urban electric transport and the introduction of an automated fare accounting system, 2017: 4.1.1).

The requirements for the conduct of passengers established by these legal acts were also somewhat different, for example, when the order of the Ministry of Transport on the one hand required that “Persons on the subway territory should be mutually polite and take care of subway buildings and equipment, maintain cleanliness, public order, requirements of the Rules, as well as to give way in train cars to the disabled, war and labor veterans, the elderly and passengers with children” (Rules of use of the Kharkiv metro, 2004: paragraph 1.6), the decision of the Kharkiv City Council, on the other ones, stated that “Persons who are on the subway should take care of buildings, equipment and other property of the subway, be mutually polite, maintain cleanliness, public order, fire safety requirements and these Rules” (On approval of the rules for the use of urban electric transport and the introduction of an automated fare accounting system, 2017: 1.5).

One can find differences in these legal acts and requirements set to persons who were on escalators. While on the escalator, the passenger is obliged (recorded in Paragraph 4.1.9 of the Rules approved by the Ministry of Transport):

“1) to stand on the right, facing in the direction of movement, pass on the left side, holding the handrail, do not linger when climbing the escalator;

2) hold children by the hand or carry it in hands and make sure that they do not lean against the stationary parts of the escalator;

3) make sure that parts of clothing do not fall between the moving and stationary parts of the escalator;

4) to help elderly passengers when moving on the escalator;

5) to lean on the handrail when moving on the escalator;

6) do not allow children to move independently on the escalator;

7) do not stand for the boundary line on the steps of the escalator” (On approval of the rules for the use of urban electric transport and the introduction of an automated fare accounting system, 2017).

Something similar, but not in the same wording, is defined by the Kharkiv City Council in the eponymous rules (paragraph 4.16). “While on the escalator, the passenger is obliged to:

1) stand facing the direction of movement, holding the handrail;

2) do not lean against the immovable parts of the escalator;

3) do not linger when climbing the escalator;

4) make sure that parts of the clothes do not get into the components escalator;

5) securely hold luggage, protect it from falling;

6) do not put luggage to the immovable parts of the escalator and on the handrail;

7) pick up luggage from the stairs before leaving the escalator;

8) in case of the escalator stop, clearly follow the instructions of the carrier’s employees, provided by loud notifications” (Rules of use of the Kharkiv metro, 2004).

Since the promulgation of the decision of the Kharkiv City Council, dated of September 20, 2017 № 787/17 “On approval of rules for the use of urban electric transport and the introduction of automated fare accounting system”, the legal status of Kharkiv metro passengers is determined respectively. The legitimacy of the Rules of Use of the Kharkiv Metro, dated of September 20, 2017 is explained by the fact that local governments were authorized to adopt similar rules by the Law of Ukraine “On Electric Transport”.

However, the rules for using the metro in Dnipro, which were approved by the Ministry of Transport and Communications of Ukraine on December 22, 2004 № 1119 (Rules for the use of the metro in Dnipro, 2004), are still in force. And this even though the justification for the abolition of such rules in Kharkiv was argued by the Ministry of Infrastructure as “done in accordance with Clause 8 of Article 4 of the Law of Ukraine “On Urban Electric Transport” and with the aim to bring regulations of the Ministry of Infrastructure of Ukraine in line with the legislation”. The question arises, why then did the Ministry of Infrastructure not extend this provision to the Dnipro?

Clause 2 of Article 8 of the Law of Ukraine “On Railway Transport” also enshrined that the rights and obligations of passengers are determined by the Rules of transportation of passengers, luggage, shipment and mail by rail of Ukraine (On railway transport, 1996). These rules were approved by order of the Ministry of Transport and Communications of Ukraine 27.12. 2006 № 1196 (Rules of transportation of passengers, luggage, cargo luggage and mail by railway transport of Ukraine, 2006). According thereto, within administrative-legal relations, the passenger has the right to safety during transportation and is also obliged to comply with these Rules.

The Code of Merchant Shipping of Ukraine approved the rules of mainly civil, commercial and international law. However, Article 4 thereof provides application of administrative law rules governing relations of merchant shipping. “To the civil, administrative, commercial and other legal relations arising from merchant shipping and not regulated by this Code, – said in this Article, – the rules of civil, administrative, commercial and other laws of Ukraine apply respectively” (Code of Merchant Shipping of Ukraine: 1995: art. 4).

One should note that the Code of Merchant Shipping of Ukraine contains several rules governing administrative-legal relations relating to merchant shipping. First of all, it is the relationship concerning the admission of vessels to navigation and the procedure for registration thereof. Along with the rules governing these relations, the code provides for statutory provisions, which ensure the legal persons of administrative-legal relations the relevant rights and responsibilities in the water transport realm. However, as regards the rights and obligations of passengers on sea and river vessels, rights and obligations thereof are governed mostly by civil law. Chapter 3 of the Code of Merchant Shipping is called “Agreement on passenger carriage by sea” and Article 190, which is placed in it and defines the rights of the passenger, has no relation to other branches of law, except civil law.

However, as in any other land transport, there are a few threats to the safety of a passenger ship. The history of navigation presents cases when passengers were injured, lost their property and even died due to technical problems or mistakes of the ship’s crew. For example, “during 2017, 32 accidents occurred on Ukrainian sea and river transport, including undersize (small) vessels, in which 3 people died and 1 person was injured. During 2016, a total of 19 accidents occurred, in which 6 people died and 4 were injured” (The state of accidents and safety of navigation on sea and river transport, including undersized (small) vessels, 2017).

A particular threat to Ukrainian ships can be posed by the aggressor state, which at any moment can confuse a civilian ship with a military one and launch an armed attack thereon. Take, for example, the incident with the British ship HMS Amethyst, which was attacked in 1949 by the People’s Liberation Army of China. As a result, “22 were killed and 31 wounded on the ship, while the ship itself ran aground and received 50 holes, which the crew sealed with everything that was on the ship” (Warspot figures: 50 holes, 23).

Certainly, the law provides for mandatory personal insurance of passengers against accidents on transport. Passengers are considered insured “from the moment of announcement of boarding a sea or river vessel, train, bus or other vehicle until the end of the trip” (Regulations on compulsory personal insurance against accidents on transport, 1994). However, incidents also arise due to unregulated relations of rules of conduct on water transport of passengers when the regulations do not clearly define the rights and obligations related to the safety of the vessel. In addition to the rights and obligations determined by civil law, for example, the Code of Merchant Shipping of Ukraine should define the rights and obligations that constitute the administrative-legal relations.

Such rights should be the following:

- provision the passenger by the carrier with a place complying with safety rules;
- provision the passenger with a place in the boat in case of a shipwreck;
- provision the passenger with a life jacket;
- the right to appeal against the actions of rescue services in case of harm to the passenger.

The responsibilities that we consider possible to establish at the legislative level for the passenger of the vessel are the following:

- prohibition to enter the office premises of the vessel;
- compliance with safety rules on board;
- execution by the passenger of the decisions of the ship’s captain;
- give explanations and perform other procedural actions in case of violation of the rules of stay on the ship when brought to administrative responsibility;
- to appeal against the actions of officials performing the procedures of bringing a passenger to administrative responsibility, in violation of the rules of administrative law.

Despite the fact that the Code of Merchant Shipping of Ukraine contains a banquet rule, which authorizes the Ministry of Infrastructure of Ukraine to develop and approve within its powers regulations the legal acts “on merchant shipping, instructions, rules of carriage of goods, passengers, mail and luggage, rules of carriage in direct mixed and direct water connections, which are mandatory for all legal entities and individuals” (Code of Merchant Shipping of Ukraine, 1995: art. 3), one should note that the rights and obligations of the passenger related to maritime safety must be established at the legislative level, so that the rules providing for them would have higher legal force and could not be questioned in resolving conflict situations. Though, such responsibilities and rights have not been approved by the Ministry of Infrastructure.

The draft laws concerning the operation of sea and river vessels do not define the rights and obligations of passengers of an administrative – legal nature as well. For example, the draft Law of Ukraine “On Inland Water Transport”, which is an urgent need for legal regulation of relations in the field of water transport of Ukraine and adopted by the legislator as a basis, does not define the rights and obligations of passengers of river vessels in the field of safety (On Inland Water Transport, 2020).

Upon analysing the legal status of air transport legal persons, including the legal status of passengers, one can immediately note that generally this aspect of administrative-legal relations is the subject of independent research. Relations in the field of air transport are regulated by numerous international legal acts (Convention for the Unification of Certain Rules relating to International Carriage by Air, 2009; International Civil Aviation Organization (ICAO), 2010), the Civil Code of Ukraine, Air Code of Ukraine, the aviation rules provided therein. Most aviation rules are set out within the rules of the administrative law.

Article 8 of the Constitution of Ukraine enshrines that “the principle of the rule of law is recognized and applied in Ukraine” (The Constitution of Ukraine. 1996: art. 8). According to this principle, the rights and freedoms of man and citizen are of a given priority. Hence the duty of the legislator and the actor of the adoption of another normative legal act, when designing thereof, is to consider the obligation of the human rights and freedoms clear definition.

In our case, such rights and freedoms apply to passengers of civil aircraft. The Air Code defines the rights of a passenger for cases of refusal to carry, cancellation or long delay of flights. Section XIII is respectively called: “The right of the passenger to compensation in case of refusal of carriage, cancellation or long delay of flights” (Air Code of Ukraine, 2010). Surely, in such cases it is necessary to ensure the rights of the passenger and the rules of the Air Code should protect him. However, there are still a list of rights and responsibilities of passengers, especially in the field of safety, which are not defined in the rules of administrative law.

Though, regulations often use binding rules for carriers and their officials. For example, Paragraph 1 of Section 7 of the Aviation Rules of Ukraine “Rules of air transportation and service of passengers and luggage” obliges the air carrier “to provide the passenger with service in accordance with the class of service purchased by him. The air carrier or sales agent is obliged to inform the passenger about the service provided in the relevant class when booking and/or issuing a ticket”. Therefore, it can be considered that the passenger has the right to demand from the carrier a service according to the acquired class of service.

Paragraph 1 of Section X of the Aviation Rules of Ukraine stipulates that “An air carrier has the right to refuse carriage at any stage of air transportation, cancel a reservation or remove a passenger from the aircraft:

- 1) due to the need to comply with the laws of the country of departure, place of arrival or transit;
- 2) at the request of the authorized bodies of state power of Ukraine” (Aviation rules of Ukraine “Rules of air transportation and service of passengers and luggage”, 2018: p. 1, s. 7; s. 10).

Hence the obligation of the passenger to calmly accept the refusal to carry him by the air carrier in such cases. And there are many such corresponding duties and rights in various Aviation Rules of Ukraine. These rules must clearly define the passenger’s rights and responsibilities so that he or she can be guided in all cases of doubt as to the good faith of the air carrier.

**Conclusions.** The research of the legal status of the passenger made it possible to provide judgments that the rights and obligations of the passenger are governed by both civil and administrative law. In order to ensure the safety of the passenger in the rules of administrative law, for example, the administrative restraining measures are established: prohibition to distract the driver while the vehicle is moving; to be in the driver’s cab; to smoke in the interior of the vehicle; to disturb public order, etc. In order to unify the rules of transport usage, it is expedient for the government to adopt Standard rules, on the basis of which local governments should adopt appropriate rules considering territorial peculiarities.

It is necessary to comply with the law on the distribution of powers in the course of the Rules for the subway usage adoption. A variant of the rights and obligations of passengers of administrative-legal nature has been proposed, which should be enshrined in the regulations governing legal relations in water transport. To provide for such rights and obligations in the Law of Ukraine “On Inland Water Transport”, the draft of which has been developed. The Aviation Rules of Ukraine need a clear definition of the rights and obligations of passengers and carriers.

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