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Statutory discounts as a barrier to the integration of bus and rail transport

Abstract: The subject of the article is the issue of statutory concessions applied in public collective transport. The level of their differentiation in relation to bus and rail transport is a serious barrier to the tariff integration of these two means of transport. Hence, in the course of works on the amendment to the act on public collective transport, it seems advisable to attempt to standardize statutory concessions, as well as to include provisions relating to them to the indicated normative act. In the current legal state, the provisions regulating this issue have been included in at least a few acts. The adoption of the assumption assuming their unification should lead to simplification of the currently applicable system, and thus accelerate the process of ticket integration.

Keywords: Tariff integration; Ticket; Statutory discount

Introduction

The act on public collective transport [11] adopted in 2010 was to comprehensively regulate the principles of organizing public transport markets, managing transport services on these markets, as well as issues related to financing public transport in the field of public utility transport [19, p. 83]. Therefore, since the indicated legal act also refers to financial issues, it is puzzling that it almost completely omits the issue of entitlements to concessionary public transport. They are regulated by a separate legal act, i.e. the Act on entitlements to concessionary travel using public collective transport [14]. From the 12-year perspective of the Act on public collective transport being in force, this seems to be a misguided solution, especially since the issues related to discount fares on public collective transport are also regulated by several other legal acts, usually referring to one specific group of their stakeholders. The right assumption adopted by the legislator, including the need to comprehensively regulate issues related to public collective transport, has not been implemented in the desired manner. The issue of statutory discounts raises justified doubts, primarily in the context of the lack of statutory definitions of key terms relating to the way they are used, as well as the definition of groups entitled to use them in specific means of public transport.

The adoption of a solution aimed at introducing issues related to concessionary journeys seems to be necessary, especially in the context of the ongoing legislative work on the amendment of the act on public collective transport. This article will present the applicable legal regulations relating to hived journeys using public transport, which - according to the author's intention - are to confirm the thesis that their absence in the act on public collective transport is a significant shortcoming of this legal act, and thus creates the basis for discussing the need to address them in a comprehensive manner.

Legal regulation of statutory discounts

Act on public collective transport - in art. 46 sec. 1 point 6 - refers to other legal acts regulating the issue of concessionary journeys. The wording 'in particular' used in that provision indicates that their catalog is open. It contains the following normative acts: the Act

on the entitlement to concessionary travel using public collective transport, the Act on the provision of war and military invalids and their families [15], the Act on veterans and certain persons who are victims of war and post-war repressions [10], the Act – Education Law [18], Education System Act [12]; the Act – Law on Higher Education and Science [17], the Act on Cash Benefits and the Rights of Blind Civil War Victims [13] and the Act on the Polish Card [9].

According to Art. 46 sec. 1 point 10 of the Act on public collective transport, the operator, i.e. the entity providing the public collective transport service under the contract signed with the organizer [1, p. 60], is obliged to take into account the rights of passengers to concessionary journeys, specified in the above-mentioned acts. Since the catalog of legal acts referred to in Art. 46 sec. 1 point 6 is open, operators are also obliged to take into account other statutory discounts resulting from subsequent legal acts not indicated therein.

Such a concept raises specific problems, including interpretation problems, both for organizers and operators, as well as for passengers. At the same time, it argues for the need to systematize all applicable statutory discounts by introducing relevant provisions to the Act on public collective transport. In addition, the desirability of such a solution is indicated by the inclusion in the said act of provisions on the financing of public utility transport, including the payment of compensation to the operator for, among others, lost revenues in connection with the application of statutory entitlements to concessionary travel in public collective transport (Article 50(1) of the Act on public collective transport).

Moving on to a more detailed analysis of entitlements to concessionary travel using public collective transport, it should be pointed out that they are only one of the categories that entitle to exercise the rights due to a specific group of passengers. The Act on public collective transport also allows the use of discounts established in the area of jurisdiction of a given organizer (Article 25(3)(10) and Article 46(1)(6)(b)). The latter, however, are not regulated at the statutory level, but - as a rule - adopted by acts of local law. Each local government unit has the right to shape them freely [4, p. 28]. Therefore, it is impossible to include them all in the Act on public collective transport.

The most important legal act currently regulating the discussed issues of statutory concessions is the Act on entitlements to concessionary travel using public collective transport. Most importantly, under Art. 1 sec. 2 - its provisions do not apply to public transport. This is the general rule of using entitlements to concessionary travel using public collective transport. It is also important that the indicated discounts apply to regular passenger transport performed by authorized railway and bus carriers (Article 1(1) of the Act on entitlements to concessionary public transport). The indicated legal act does not define the concept of public transport, nor does it contain a direct reference to another normative act. Therefore, the term from the Act on public collective transport should be used. Public transport is defined in Art. 4 sec. 1 point 4 as communal passenger transport performed within the administrative boundaries of the city or: a) cities and communes, b) cities, or c) neighboring cities and communes - if an agreement has been concluded or an inter-communal relationship has been established for the joint implementation of public collective transport, and also metropolitan passenger transport. Communal passenger transport should be understood, following the definition contained in art. 4 sec. 1 point 3 of this legal act, as the transport of passengers as part of public collective transport performed within the administrative borders of one commune or neighboring communes that have concluded an appropriate agreement or that have established an inter-communal relationship; other than the district, district-commune, metropolitan, voivodship, and inter-voivodship transport. Only quoting and juxtaposing these two terms gives a picture of the types of collective transport in which it is possible to apply statutory discounts, resulting from the Act on entitlements to

concessionary public transport. In other words, they do not apply to all those transports which, under the Act on public collective transport, are performed as urban transport.

Terminology referring to the types of communication may cause even greater interpretation problems. It should be noted that this concept is not identical to the above-mentioned and defined urban transport, but rather refers to public collective transport, and more precisely to the individual categories of communication lines (connections) launched within it. Therefore, the legislator pointed to communication: as ordinary, hasty, accelerated, and express, without defining any of the indicated categories. The definitions of each of them are included in the regulation of the Minister of Transport, Construction, and Maritime Economy on timetables [7]. Distinguishing, but also properly defining, individual categories of communication are important for the scope of application of statutory discounts in each of them, and thus the transfer of funds from the state budget for the use by entities indicated in the Act on public collective transport of statutory discounts. Considering the above, it seems advisable to organize these issues at the statutory level by introducing relevant provisions to the Act on public collective transport. This is all the more justified as the Regulation on timetables defines the different types of transport only concerning road transport. The Act on entitlements to concessionary travel using public collective transport also applies to rail transport.

The concept of introducing definitions of individual types of communication to the act on public collective transport is not new. It appeared already during the legislative work and, what is important, throughout the legislative process, both at the governmental and parliamentary stages, it did not raise any doubts [6]. Ultimately, however, these terms were not introduced into either the Act on public collective transport or the Act on entitlements to concessionary travel on means of public collective transport, assuming that it will be sufficient to define them in the regulation on timetables.

Adoption of such an assumption may raise justified doubts. As has already been indicated, the distinction between different types of transport (express, fast, accelerated, and regular) is important in the system of compensation for the use of statutory concessions. Meanwhile, these terms were defined only based on an executive act (regulation), moreover - as indicated in the doctrine - issued without an appropriate basis [5, p. 31]. As a consequence, this leads to the conclusion that both administrative authorities and courts are not obliged to apply the definitions of ordinary, accelerated, fast, and express transport, adopted based on the regulation on timetables. This gives obvious grounds for putting forward the thesis that it is necessary to regulate - at the statutory level - not only the issues regarding the entitlement to concessionary travel but also the definition of individual types of transport (express, fast, accelerated, and regular). It is also worth considering replacing the word "communication" with a more readable term, such as "communication line", respectively express, fast, accelerated, and ordinary.

At the same time, it should be borne in mind that the provisions of the Act on public collective transport refer not only to road transport, to which the definitions in the regulation on timetables refer but also to the railway, other rails, cable, funicular and off-road, sea and shipping inland waterways (Article 1(1)). Meanwhile, the Act on entitlements to concessionary travel on means of public collective transport regulates only the entitlement to concessionary travel on means of public collective transport in regular passenger transport, provided by authorized railway and bus carriers (Article 1(1)), excluding public transport. From a practical point of view, it is primarily the regulations relating to road and rail transport that are important, although in theory public utility transport, and above all the rules for their financing, are specified in the Act on Public Collective Transport (Article 1(2)) using other modes of transport. Therefore, while the application of statutory discounts indicated in the Act on entitlements to concessionary travel on public collective transport does not raise any major

doubts regarding the interpretation, they may appear in the case of provisions of other legal acts regulating the issues in question.

This is due to the inconsistent terminology used in various normative acts. For example, in Art. 16 sec. 1 of the Act on the provision of war and military invalids and their families, it was indicated that a war invalid is entitled to a 100% discount when traveling by trams and buses (trolleybuses) of public transport, regardless of the place of residence. A literal interpretation of this provision proves that this group of passengers may benefit from reduced public transport fares, but not those in the sense adopted by the Act on public collective transport, but only trams, buses, and trolleybuses. The subway remains outside the regulation of the quoted provision, and the use of a specific discount on trains, for example, the Fast Urban Railway in Warsaw - as it should be assumed - operating as part of public transport within the meaning of the Act on public collective transport and constituting its essential element, raises serious doubts. Therefore, it is completely unnecessary to list specific means of collective transport (buses, trolleybuses, and trams) in the Act on the provision of war and military invalids and their families, which on the one hand causes serious interpretation doubts, and on the other hand, limits the possibility of applying the discount to only three mentioned therein.

The indicated group of passengers can use the discounted subway rides in practice, but not on the basis of the provisions of the above-cited act, but the resolution of the Council of the Capital City of Warsaw [8]. The inconsistency of the legislator resulted in the need to regulate the issue by an act of local law. It seems incomprehensible to exclude the possibility of using reduced fares on the subway while indicating buses, trolleybuses, and trams.

The case discussed above is another confirmation of the thesis that it is necessary to comprehensively regulate the issue of statutory discounts. The Act on public collective transport uses the term "urban transport", which is the basis for determining the rules for the use of concessionary fares by the mentioned group of passengers. This legal act also includes the definition of other rail transport, which includes not only trams and metros in one category of transport but also means of transport moving on one rail or on air or magnetic cushions (Article 4(1)(19)). As a rule, all of them can be used for transport as part of public transport, within the meaning of the Act on public collective transport. The discounts in the act on veterans and certain persons who are victims of war and post-war repressions were defined in the proposed manner. Article 20 par. 1 of this legal act states that veterans and other entitled persons are entitled to a 50% tariff discount when traveling by means of public transport. Such wording does not raise any doubts as to the specific means of transport performing transport as part of public transport. The legislator used the term "urban transport" also in Art. 105 and Art. 214 of the Law on Higher Education and Science.

This kind of "dualism" relating to concessionary travel by means of public collective transport can be clearly seen in the example of the Act on cash benefits and the rights of blind civilian victims of warfare. Art. 10 sec. 1 point 1 of this normative act states that the entitled person is entitled to a 100% discount when traveling by public means of public transport, regardless of the place of residence, and Art. 10 sec. 2 point 4 indicates that the entitled person is also entitled to reduced fares on public collective transport, pursuant to art. 2 sec. 7 and Art. 4 sec. 3 of the Act on entitlements to concessionary travel by means of public collective transport. This is mainly because the provisions of the latter normative act do not apply to public transport. The postulated inclusion of provisions relating to concessionary journeys to the Act on public collective transport would allow for the complete removal of the above-cited provisions from the Act on cash benefits and the rights of blind civilian victims of warfare, or the inclusion of an appropriate reference therein. In the current legal status, however, it is necessary to indicate that entitled persons are entitled to certain concessions in public transport. However, it does not seem necessary to refer to the Act on entitlements to

concessionary travel by means of public collective transport, since this concession results from a specific normative act anyway. Such a structure may cause problems with finding discounts for blind civilian victims of warfare who are considered to be incapable of independent existence, the more so that despite the fact that this problem is included in the Act on cash benefits and rights for blind civilian victims of warfare, the amount of specific discount for travel in means of public collective transport, other than public transport, was indicated in the Act on entitlements to concessionary journeys in means of public collective transport. This is, therefore, another specific example that allows postulating the introduction of changes in this respect in the Polish legal system.

In the Act on the Pole's Card, the provision on concessionary journeys is a repetition of the provision of Art. 4 sec. 4 point 4 of the Act on entitlements to concessionary travel using public collective transport and does not give the holders of the Pole's Card any additional rights in the field of travel by means of public collective transport.

Issues with tariff integration

A specific duality of statutory discounts applied in rail and bus transport is in practice a significant barrier to the implementation of the concept of an integrated tariff and ticket system, which was defined in Art. 4 sec. 1 point 26 of the Act on public collective transport. It provides that this is a solution consisting in enabling the passenger to use a ticket entitling him to use various means of transport within the area of property of the organizer of public collective transport. In other words, it means the possibility of using various means of transport with the use of a ticket from one of the organizers or operators (bus) in the vehicles of another organizer or operator (rail) or vice versa [3, p. 71]. In this case, an appropriate agreement is usually concluded between individual entities under which financial settlements are made. Undoubtedly, it is a pro-passenger model, but not ideal, due to the barrier in the form of various statutory discounts used in rail and bus transport. The catalog of discounts for both means of public transport is different. Thus, as rightly stated in the literature, the catalog of persons entitled to concession fares is very diverse [6, p. 23]. In terms of determining a specific discount, it is necessary to consider whether the passenger travels by train or bus, whether it is a journey by public transport, whether he or she uses a single or monthly ticket, and finally to which group of eligible entities he or she should be included. In practice, the determination of a specific discount is at the discretion of the organizer and, less often, the operator or carrier. It is these entities that must apply numerous provisions, from which it is necessary to find the appropriate ones, relating to individual cases. Therefore, bringing them together in one normative act, which has been postulated many times, would be a significant simplification. In the current legal status, problems with the availability of tariff information are not uncommon, as is emphasized in the literature, for example concerning disabled people. As it seems, the multitude of regulations in this area, as well as the level of their complexity, makes the tariff structure inaccessible, and carriers, especially smaller bus operators, are not able to provide a full list of statutory discounts to which individual groups of authorized entities are entitled [6, p. 24]. This, in turn, makes it difficult to plan a trip, which - especially in the case of people with disabilities - is not without significance.

Unification of statutory discounts

An even more complicated issue, although very desirable, seems to be the unification of statutory discounts in relation to bus and rail transport. Their duality, already mentioned, is a practical barrier to introducing a single (common) ticket for these types of public transport. If you purchase a discount ticket, you will be required to use two different statutory discount systems. This is very well illustrated by the example of cooperation between two state-owned carriers - the railway PKP Intercity and the bus - PKP Polonus Warszawa. Both companies

have attempted to offer passengers a combined ticket for travel by trains and buses. So far, however, it has not been possible to develop the possibility of purchasing one ticket for the entire journey, and only one "shopping path" has been made available, using two separate systems. In practice, this means that a passenger who plans to travel partly by PKP Intercity train, and partly by PKS Polonus bus, can only search for all connections that interest him. In case of purchasing a ticket for previously found courses, it is necessary to use two ticket sales systems, i.e. the e-IC system, which allows you to purchase a ticket for a PKP Intercity train journey, and then from the dworconline.pl system to purchase a ticket for the rest of the journey by PKS bus Polonus. Apart from technical issues, and more specifically the inconsistency of both systems in terms of selling two tickets by each of them, as well as one common ticket for the entire journey, a significant barrier to their integration is the catalog of statutory discounts, which are different for both means of transport, as mentioned earlier. Therefore, there is no doubt that the unification of statutory discounts would significantly speed up the process of implementing a joint rail-bus ticket.

The difference in the catalog of discounts concerning bus and rail transport can be seen after a cursory analysis of the Act on entitlements to discounted public transport. Article 2 para. 1 of this legal act states that the following persons are entitled to a 100% discount when traveling by means of public collective rail transport on the basis of single tickets: 1) children aged up to 4 years; 2) uniformed officers of the Border Guard during the performance of official duties related to the protection of the state border, as well as during the escorting of detained persons, patrol duty and performing activities related to border traffic control; 2a) officers of the Border Guard during the performance of official duties related to preventing and counteracting illegal migration, carried out on communication routes of particular international importance; 3) officers of the Customs and Tax Service during the performance of official duties of the control specified in Section V of the Act of 16 November 2016 on the National Revenue Administration; 4) uniformed Police officers while escorting detained persons or protected property, transporting special mail, patrol service and providing assistance or assisting in the activities of enforcement authorities; 5) soldiers of the Military Police and military law enforcement authorities performing official duties of patrolling and other official duties in means of public transport. In the case of bus transport referred to in Art. 2 sec. 2 and sec. 2a of the Act on entitlements to concessionary public transport, this catalog is much less extensive, and additionally, a distinction has been made between ordinary, fast, accelerated, and express transport. Under the provisions of art. 2 sec. 2 of the normative act indicated above, children under 4 years of age are entitled to a 100% discount when traveling by public collective bus transport in regular and fast transport, based on single tickets, provided that the child does not use a separate seat, and by art. 2 sec. 2a of the normative act to the same discount when traveling using public collective transport by bus in regular, fast, accelerated, and express transport, on the basis of single tickets, as well as Border Guard officers during the performance of official activities related to preventing and counteracting illegal migration, carried out on communication routes of particular international importance. This particular example clearly shows the level of complexity of the system of applying statutory discounts in public collective transport. Further distinctions, due to rail and bus transport, resulting also from the Act on entitlements to concessionary travel on public collective transport, concern discounts in the amount of 91%, 78%, 51%, 49%, 37%, or 33%. It is not possible to discuss all specific cases here. However, they constitute another confirmation of the scale of complexity of the discussed issue, especially bearing in mind that the Act on entitlements to concessionary travel by means of public collective transport is not the only legal act regulating the matter in question.

In addition, the legislator decided to add another discount to the catalog of statutory discounts by introducing it to the Act amending the Act on special solutions related to the

prevention, counteraction, and combating of COVID-19, other infectious diseases, and crises caused by them, and some other acts [16]. It was awarded to an honorary blood donor who donated at least 3 donations of blood or its components, including plasma after COVID-19 disease, and is entitled to a 33% discount for domestic public transport: a) rail in 1 and 2 class passenger and fast trains and bus in regular and fast communication, b) rail in the 2nd class of trains other than passenger and fast - based on single tickets.

Summary

The analysis conducted above leads to the conclusion that in the course of work on the amendment of the Act on public collective transport, it is worth considering the issue of statutory discounts. At the same time, it should be clearly noted that this concept should cover only those discounts that result - also in the current legal status - from specific acts. Such location makes it necessary to assume that these discounts make it necessary to transfer lost revenues from the state budget to the authorized refinancing entity. In the opinion of the author of the article, the catalog of these discounts should be indicated in the Act on public collective transport, even at the cost of increasing its volume (scope). This is justified as it is this legal act that creates and regulates the rules for eligible entities to apply for funds from the state budget to cover losses incurred due to the application of statutory discounts. As stated in the doctrine, one of the barriers limiting the possibility of full integration is the lack of refunds of discounts from the state treasury for railway operators in relation to tickets integrated with municipal transport [2, p. 209].

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