LAW

DOI: https://doi.org/10.64076/ap260928.04

Yurii Sokur
V. M. Koretsky Institute of State and Law of the National
Academy of Sciences of Ukraine, Kyiv, Ukraine

HISTORICAL TRADITIONS OF CUSTOMARY LAW IN UKRAINE'S TRANSPORT AND TRADE PROCESSES

Abstract. These abstracts examine the role of customary law as a fundamental basis for the formation and functioning of transport and trade relations. It is demonstrated that customary law ensures stability, trust, and predictability in the interactions between business entities, while regulating the organization of transportation, the conclusion of trade agreements, and the resolution of disputes.
Keywords: customary law, transport relations, trade relations, economic regulation, legal traditions.

Юрій Сокур
Інститут держави і права імені В. М. Корецького
Національної академії наук України, Київ, Україна

ІСТОРИЧНІ ТРАДИЦІЇ ЗВИЧАЄВОГО ПРАВА В ТРАНСПОРТНИХ І ТОРГОВЕЛЬНИХ ПРОЦЕСАХ В УКРАЇНІ

Анотація. У тезах розглядається роль звичаєвого права як фундаментальної основи формування та функціонування транспортних і торговельних відносин. Показано, що звичаєве право забезпечує стабільність, довіру та передбачуваність у взаємодії суб'єктів господарювання, регламентує порядок організації перевезень, укладання торговельних угод і вирішення конфліктів.
Ключові слова: звичаєве право, транспортні відносини, торговельні відносини, економічне регулювання, правові традиції.

As one of the oldest forms of legal regulation, customary law is rooted in long-standing historical practices and traditions that have evolved into generally accepted norms of conduct within a specific community. It emerges spontaneously and takes shape through ongoing social interactions; while it does not rely on written acts, it carries the force of law provided it is observed by the majority of society's members. In the context of transport and trade relations, customary law serves as a vital mechanism ensuring the stability, safety, and predictability of actions for all entities involved in the circulation of goods and services. It governs various aspects of economic activity – ranging from the rules for organizing transportation to the standards for conducting commercial operations.

Transport relations involving the carriage of goods and passengers require a high level of coordination and accountability among cargo owners, carriers, local authorities, and other participants in the process. Accordingly, established customs dictate rules for selecting safe and most cost-effective routes, procedures for loading and unloading, transportation timeframes, and the liability framework for cargo loss or damage. These unwritten rules also determine how disputes are resolved outside of

formal litigation, relying on principles of mutual trust and respect. Such traditions were an integral part of medieval trade routes and played a pivotal role in ensuring the continuity of economic ties.

In trade relations, customary law governs the mechanisms for concluding contracts, mutual obligations, product quality standards, payment methods, and dispute resolution procedures. It establishes shared norms of conduct that help minimize risks associated with the exchange of goods, particularly where formal legislative oversight is limited. Customs foster trust between trading partners – a key factor in successful commercial activity – thereby laying the groundwork for long-term networks and cooperation. Established traditions have historically enabled parties to bypass bureaucratic hurdles and respond swiftly to changing market conditions, which was especially important during periods of instability.

The development of customary law in the spheres of transport and trade was significantly influenced by the practices of various ethnic groups and regions interacting through the exchange of goods. For instance, in Rus', trade routes – particularly those along rivers and caravan paths – were governed by unwritten rules that ensured order and safety of movement. In later periods, such as the era of the Chumaks (traditional Ukrainian wagoners), distinct customary traditions emerged to regulate transport logistics, the conclusion of agreements, the relationships between wagoners and merchants, and dispute resolution. Similarly, during the Cossack era, customary law shaped trade and transport within the Zaporozhian Sich and other Cossack formations; traditional rules established there defined economic and social relations while fostering discipline and mutual trust among economic participants. Other European regions – especially cities belonging to trade unions and guilds – possessed their own customary law codes that influenced the regulation of both domestic trade and international relations. These traditions served as a vital resource for maintaining stable economic activity and market development. Thus, across various historical periods – including Kyivan Rus', the Chumak era, and the Cossack period – customary law played a crucial regulatory role and facilitated the establishment of enduring transport and trade connections.

At the current stage, the study of customary law within transport and trade relations is of particular importance for Ukraine, given the complexity and dynamism of the economic environment, as well as the challenges associated with legal system reform and integration into European and global markets. Amidst underdeveloped legislative regulation in certain areas, alongside existing issues regarding law enforcement and a lack of trust between business partners, the adaptation and integration of customary norms could serve as a crucial step toward enhancing the flexibility and practicality of legal rules. Taking into account regional socio-cultural characteristics, historical traditions, and business practices will help establish more effective mechanisms for regulating transport and trade relations in Ukraine. Customary law can also act as a stabilizing factor during periods of socio-economic instability by mitigating conflict and fostering trust among market participants – a matter of particular relevance for Ukrainian businesses, which frequently encounter

difficulties regarding legal protection and the enforcement of contractual obligations. Thus, understanding and applying customary law in the current context represents a promising avenue for improving legal regulation, fostering sustainable economic growth, and strengthening social cohesion in Ukraine.

Thus, customary law serves as the foundation upon which transport and trade relations have been built and continue to be shaped. It acts as a source of legal norms that ensure the efficient circulation of goods, the organization of transport operations, and the maintenance of stable economic ties. Furthermore, customary law establishes the social and economic basis for interaction among market participants, fostering the trust and mutual understanding essential for the sustainable development of trade and transport networks and systems. Preserving and developing these traditions alongside formal legislation is a prerequisite for building a comprehensive legal system capable of effectively addressing the challenges of the modern economy and promoting sustainable societal development. Incorporating customary norms into legal regulation allows rules to be adapted to the specific operational conditions of business entities, enhances legal culture, and reduces conflict within transport and trade relations.

Consequently, integrating customary law into modern legal mechanisms creates a harmonious blend of traditional experience and innovative approaches; this ensures effective, flexible legal regulation that meets contemporary demands and fosters both domestic and international cooperation.