



ADMINISTRATIVE AND LEGAL CULTURE OF DRIVING A VEHICLE AS A FACTOR IN THE SOCIAL CONSCIOUSNESS OF A ROAD USER

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ABSTRACT

The article is devoted to the study of the legal culture of driving as a factor of road safety. It is established that the level of legal culture of both citizens and officials is of great importance, in particular in the field of road safety. The higher the level of legal culture of legal entities, the fewer offenses will be committed and the laws will be implemented more effectively. The article examines the administrative liability for transport offenses in foreign countries and the possibility of applying the positive experience of these countries in Ukraine. Mortality and injuries due to road accidents in Ukraine have been found to be one of the highest in Europe, while the level of road safety remains extremely low, as repeatedly reported by experts from WHO, the World Bank and other international agencies. It is concluded that borrowing the experience of foreign countries in the field of administrative liability for traffic violations in the current conditions of European integration of Ukraine is very important and requires its application in: adjusting the types of administrative penalties for traffic violations; determination of the amount of administrative fines (take into account the amount of real damage); introduction of a system of accrual of penalty points; imposition of an administrative penalty in the form of application of several sanctions, etc.

Keywords: legal culture; administrative offense; safety; traffic; penalties.



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1 INTRODUCTION

An important condition for the existence and development of an independent state is to increase the level of legal culture of both citizens and officials. Therefore, today in Ukraine “in this sense, there is a rather slow change in stereotypes and behavior of people who see a significant discrepancy between the declarative content of the law and the changes that occur in everyday life. It should be noted that a significant part of the population of Ukraine is not oriented in the legislation, the knowledge of which people desperately need. Legal nihilism is taking place as an integral part of the cultural and legal crisis. In many cases, people are not very enthusiastic about the large-scale changes and upheavals that have taken place in Ukraine in recent times. In fact, it can be argued that legal nihilism, as a mass phenomenon, is inherent not only among ordinary citizens, but also among officials of public authorities, in its executive and legislative branches. It can even be argued that it is clearly demonstrative, aggressive and uncontrollable. Suffice it to recall the numerous cases of refusal of academic officials to comply with lawful court decisions.

All the above directly affects the stability of the existing constitutional system in Ukraine and its foundations, as a system of principles and principles that were established by the Ukrainian people and found their place in the current Constitution of Ukraine. Therefore, it is necessary to redouble efforts to improve the culture of citizens, including legal. The higher the level of legal culture of legal entities, especially officials, in particular public authorities and local governments, the more effective the implementation of laws. Therefore, it is necessary to change the legislation, bringing it closer to the best examples of democratic states governed by the rule of law. It is necessary to carry out regular work on prevention and fight against offenses, to carry out mass legal education, especially among young people. Relying on law as a part of legal culture and in general on cultural traditions, in Ukraine it is possible to overcome legal nihilism (Cabinet of Ministers of Ukraine, 2017).



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In the context of the above, it is worth noting that driving a vehicle also requires a legal culture. Because traffic today is an integral part of modern civilization. Road transport, transport corridors and roads, bridges, tunnels have literally changed the face of the earth. They embody a strong manifestation of scientific and technological progress and significantly affect the pace of economic and social development of each country and all mankind. Traffic-related processes can, under certain conditions, be dangerous to society (Topolšek et al., 2019).

The intensity of traffic on the roads of Ukraine is constantly growing, and the number of road accidents is increasing. Traffic-related processes, the phenomena that accompany it, and their consequences, in particular the damage that society suffers from road accidents, occupy an important place in public life and require in-depth research. The reasons for the high level of accidents on highways are, first of all, low discipline and legal culture of road users, disregard for basic safety requirements, as well as the technical condition of vehicles and roads (Rovyk, 2020).

Thus, as we see, the mortality and injury rate due to road accidents is one of the highest in Europe, while the level of road safety remains extremely low, as repeatedly pointed out in their reports by WHO, World Bank and other international institutions (Lytvyn & Lytvyn, 2020). An integral part of the legal regulation of state bodies is the establishment of administrative liability for offenses in the field of road safety. Despite the fact that the Code of Administrative Offenses is often amended and supplemented, law enforcement indicates the need for more detailed refinement. This circumstance in the light of existing problems of the information system of Ukraine indicates the need to further improve not only the mechanism of legal protection of the interests of legal entities in the field of road safety, but also to improve the effectiveness of enforcement measures for violating current legislation in law enforcement (Lytvyn, 2018).

That is why the fight against transport accidents requires: the involvement of all civil society institutions, amendments to legislation, the introduction of innovative methods and technologies, the establishment of fruitful international cooperation. In recent years, a lot has been done in this direction: Ukraine's traffic legislation has been reformed, traffic rules



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have been updated, legal liability for violations has been strengthened, compulsory civil insurance for vehicle owners has been introduced, a national road safety strategy has been approved, and a coordination network has been established. road safety councils, important international agreements have been ratified. However, in general, the existing system of road safety is far from perfect (Lytvyn & Lytvyn, 2020).

2 THE RULES OF CONDUCT ON THE ROADS

Failure to comply with the rules of conduct on the roads is a serious threat to life and health of the population, which leads to an increased level of attention from the state and society to cases of violations of traffic discipline by road users. Therefore, today the priority for society, which should be addressed at the state level, is to ensure safe road conditions (Koller & Sobakar, 2015). Thus, as we see, the level of deaths and injuries due to road accidents is a manifestation of low legal culture in this area and one of the highest in Europe, while the level of road safety remains extremely low, as repeatedly reported by WHO, World Bank and others international institutions (Staton et al., 2016). Analysis of domestic legislation in the light of recent changes in road safety indicates the need for a detailed study of relevant foreign experience and its implementation in Ukraine. First of all, it concerns methods and means of application of administrative responsibility for offenses in the researched sphere.

It should be noted that the responsibility for violating traffic rules (hereinafter referred to as traffic regulations) in Ukraine, in our opinion, is not fully aimed at improving traffic discipline and safety, as in most countries. Thus, the main principle of punishing violators in foreign countries for traffic violations is to deprive them of the desire to repeat these violations in the future. That is why the country pays great attention to improving legislation in this area, especially with the use of foreign experience. Thus, according to the Strategy for Improving Road Safety in Ukraine, approved by the order of the Cabinet of Ministers of Ukraine dated June 14, 2017 No. 481-r, among other key areas of



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implementation of this strategy is "analysis and improvement of road safety legislation to ensuring compliance with the best legal standards in force in European countries with the safest road transport systems "(Cabinet of Ministers of Ukraine, 2017).

Driver has a very important role in traffic accidents and most of the time he / she holds the major responsibility as he / she has the highest control level on the road (Alkheder et al., 2013). Thus, the peculiarity of the Japanese Traffic Rules is that for any violation they can deprive the driver of a driver's license. For driving at a forbidden traffic light, the driver can be imprisoned for up to six months. In general, in Japan, the penalty of imprisonment is imposed for the following violations of traffic rules:

- operation of vehicles that are in poor technical condition (up to three months);
 - violation of the rules of travel of railway crossings (up to six months);
 - driving a vehicle by a person who does not have a driver's license (up to two years);
 - transfer of control of the vehicle to a person who is intoxicated, or driving a vehicle in a state of intoxication (up to three years);
 - damage to technical means of traffic organization (up to five years)
- (Japanese Traffic Regulations, 2020).

It is also pertinent to cite the example of Finland, where one of the main problems is driving while intoxicated. According to statistics, 25-30% of such offenses end in death for the driver (pedestrian or passenger). In this regard, at the legislative level for driving while intoxicated is also provided for liability in the form of deprivation of a driver's license or imprisonment, depending on the circumstances of the event "(Davidova, 2019). Most countries have detailed lists of traffic rules and elaborate legal regimes for penalizing drivers who break them. Previous research has suggested that drivers tend to drive more safely after receiving penalties for traffic infringements.

Thus, severe types of punishment, in our opinion, are appropriate, as the practice of traffic violations in Ukraine shows that the main number of offenses is committed while driving while intoxicated, and liability for drivers is established only in the form of



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administrative penalties with deprivation the right to drive vehicles, which is ineffective today. More severe conditions, such as up to 2 years in prison, may reduce crime in this area. Note that in the categories of criminal offenses related to traffic accidents, the examination is especially important. “Moreover, it should be noted that in some categories of criminal offenses, for example, related to traffic accidents, ... is of particular importance during an examination” (Ponomarenko et al., 2020). Thus, in addition to administrative, the application of criminal liability is effective. So B.T. Razgildiev and N.I. Nasirov (2019) emphasizes that the social effectiveness of the influence of the criminal-executive law on the consciousness and will of the convict directly presupposes his behavioral act: positive or negative, more often both.

However, today in Ukraine and in the world, in contrast to criminal penalties, there are instruments of compensation for damages that are not related to the prosecution of perpetrators. Thus, due to the large number of accidents, the insurance of motor transport and driver liability is relevant. “Thus, nowadays the insurance of motor vehicles and driver liability is a rather actual type of insurance due to the growing number of incidents” (Vorobyova et al., 2019). Liability is perhaps the most important tool for influencing the behavior of the carrier in compensating for material losses of the passenger “... liability is perhaps the most important tool for influencing the behavior of the carrier and compensating for the material loss of the passenger” (Samoylenko et al., 2020).

In order to minimize the damage caused to vehicles, as well as the lives or health of citizens as a result of road accidents, compensation for economic losses to victims has been successfully developed and implemented “... in order to minimize the damage caused to vehicles, as well as to life or health of citizens as a result of RTIs, the compensation for economic loss to injured or aggrieved persons has been successfully developed and is being implemented” (Vorobyova et al., 2019). Among other novelties of foreign legislation, the experience of Sweden seems interesting, where the Law on Traffic Regulation provides for sanctions in the form of penalty points for tourist drivers. It should be noted that tourists-drivers are rarely deprived of the right to drive, at least during the first trip, however, the next time the violator applies for a visa, he may be denied or even



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banned from entering Europe for up to five years. It depends on the severity of the previous violation, the presence of victims, appearance in court and behavior in court (Garkusha, 2004).

In turn, the German government has decided to impose fines of more than 70 euros on residents of Germany who violated traffic rules in other EU countries. At present, Germans fined for violating the rules outside their home country may not be able to pay their receipts by post after returning home. At the same time, the German state did not bring them to justice. The exception was Austria, whose government had previously concluded an agreement with the German authorities on the mutual prosecution of traffic offenders. In other countries, local police had no choice but to collect fines on the spot. This was the only way to punish German violators. The innovation allows German financial institutions to raise up to € 10 million more annually to the budget (Road safety..., 2011).

As for the terms of payment of fines, in Ukraine it must be paid within 15 days, otherwise the amount of the fine will double. Terms of payment of fines in other countries differ: in the UK - up to 28 days, Japan - up to 10 days, Sweden - up to 2 years (Goncharuk & Nosach, 2017). In many countries, after violating the traffic rules, the driver receives a notice of payment of a fine, which he must pay in due time or protest it. This period is calculated from the moment of delivery of the message by mail. In case of late payment of the fine, the amount is automatically increased in most countries. In turn, as an incentive measure, the experience of the United States is noteworthy, where, in the case of prompt payment (short terms) of the fine for a minor violation, the violator is returned part of the fine.

3 THE RESPONSIBILITY FOR VIOLATING ROAD SAFETY LEGISLATION IN EU COUNTRIES

In general, the responsibility for violating road safety legislation in EU countries has increased in recent years. In Norway, a number of different sanctions are provided for



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traffic violations, most of which are imposed in the form of a fine. Data on a person who has had such a punishment at least once shall be entered in the official register of convicted persons, and other measures may be applied without entering such data in the register. For minor violations, an administrative fine is often imposed after a simplified review. Such consideration involves the imposition of a penalty directly by authorized police officers without taking the case to court. The Norwegian experience shows that since convictions for traffic violations, including minor ones, would have to be handed down by courts with the usual possibility of appealing the sentence, all courts would be overwhelmed by minor, in most cases, proof of guilt. which does not cause any problems.

In order to speed up the sentencing of minor violations and increase their effectiveness, it was decided to simplify the procedure for collecting fines and review the violation by an authorized person on the spot (Koller & Sobakar, 2015). A similar practice of collecting fines is currently used in Ukraine, when after violating the traffic rules, a patrol police officer draws up a decision on an administrative violation at the scene of the violation, enters the number of the decision and the amount of the fine in the mobile banking terminal. As a result, the money contributed by the offending driver is guaranteed to be used to pay his fine, and the fine will be paid promptly and without corruption on the part of law enforcement officers.

The legislative initiatives of the EU countries on the terms of deprivation of the right to drive vehicles also deserve attention. In different countries of the European Union it is different - from one month to 10 years or more. For example, in Denmark and Norway, life imprisonment is possible. In Sweden, Norway, the United Kingdom, and Denmark, only a court can deprive a driver of the right to drive a vehicle, and in Japan, a road safety commission. Courts can also renew a driver's right to drive before the deadline: in Denmark - no earlier than 3 years, in exceptional cases on special grounds, in the UK - after half the period. In France, after the expiry of the driving disqualification period, the driver's license is returned to the owner only after a medical examination in all cases where this period exceeds 1 month, or when this type of penalty was applied for driving while intoxicated. In the United Kingdom, a court order may require a driver to retake the exams.



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In many countries, according to traffic laws (UK, Denmark, Norway, USA, Japan), the responsibility of the driver in the form of imprisonment comes for driving while intoxicated.

However, in Norway, depending on the level of excess of the permissible concentration of alcohol in the blood, the driver is prosecuted in the form of imprisonment or with actual or suspended imprisonment. In Norway and the United States (in some states) for driving while intoxicated, the driver is liable in the form of fines and imprisonment at the same time (Koller & Sobakar, 2015). From this analysis, a positive experience for implementation in Ukraine is the possibility of lifelong deprivation of the right to drive vehicles, which will apply to those drivers who have repeatedly violated traffic rules, which will also give an effective result in reducing offenses in this area.

Another interesting foreign experience of bringing to administrative responsibility in the field of road safety is such a type of penalty as penalty points. This system has long been in the legislation of other countries and has shown itself on the positive side. Thus, in France, fines for traffic violations are divided into five classes. The first four belong to the so-called "light" offenses, for which there are only fines (violation of parking rules, failure to turn the turn signal when rebuilding, lack of insurance, speeding at 20 km / h, phone calls). More serious traffic violations (driving while intoxicated, without a driving license, speeding at more than 50 km / h, driving at a red traffic light, creating an emergency, etc.) threaten thousands of fines and penalty points. For three points during the year, a person is deprived of the right to drive a vehicle in court.

In case of fixing the speeding speed with the help of technical means operating in automatic mode, penalty points as an additional type of penalty are accrued only in case of identification of the driver. If the driver's face cannot be recognized in the photo, only a fine is imposed. In Israel, there are also penalty points for traffic violations, which are canceled only after two years. If during this period the driver scores 22 points or more, they are canceled only after 4 years. A driver who scores from 24 to 34 points is required to take an in-depth driving course and retake the exam. In the case of 36 points or more - he is deprived of the right to drive for three months, after which he must pass the exams provided for a driver's license. Exceeding the speed limit by more than 30 km / h in a



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settlement or 40 km / h outside it is punishable by 10 penalty points. In the United States, the scoring system has been operating for more than 30 years. Exceeding the speed of 1 to 10 miles per hour entails the imposition of 3 penalty points, more than 40 miles per hour - 11 points. Violation of a safe distance or sudden braking - 4 points, and the creation of an emergency situation - 5 points (Walter & Studdert, 2015).

The information on violations is stored in the police base for 7 years, but only points for the last 18 months are taken into account. The presence of penalty points for the driver is also considered by insurance companies, which keep the data for three years. The more violations - the more expensive the insurance. If a driver has more than 11 points, it will cost \$ 1,000 more per year. In the UK, after a novice driver scores 6 points in two years, he must retake all the exams. And penalty points can also be accrued along with the application of the usual monetary penalty - a fine as an additional sanction (Kalugin, 2017).

However, in Norway, two hypotheses have been formulated regarding the use of penalty points:

- 1) a "driving style effect" implying that drivers with previous penalty points have a higher probability of incurring new points than drivers without previous points;
- 2) a "deterrence effect" implying that drivers with more than four points have a reduced probability of incurring new points, due to impending risk of license revocation.

Results showed an inverted U-shaped relationship between the number of penalty points incurred during a one-year period and the number of additional penalty points incurred in the subsequent year, with the highest number for drivers with four previous points. Thus, both hypotheses were clearly supported, and it is concluded that the penalty point system has a significant deterring effect for drivers who are at high risk of losing their license at the next infraction) (Sagberg & Ingebrigtsen, 2017).

In turn, the scoring procedure, which was introduced in Ukraine and is now abolished, was that every citizen who has the right to drive a vehicle, for offenses in the field of road safety, recorded only automatically, is accrued annually 150 points. In the case of fixing such an offense from the total number of points is accrued and the number of penalty points, which is provided in the sanction of the article, which provides for the



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composition of the offense (Code of Ukraine on Administrative Offenses, 1984). It should be noted that the experience of foreign countries suggests the need to resume the application in Ukraine of this type of administrative penalty as penalty points, which will be necessary to improve road safety.

Analyzing the current situation and trends, we can assume that the current state of traffic management, the level of technical equipment and the quality of roads largely do not meet the requirements and do not ensure the safety of road users (Ivanova & Filippov, 2019). About 75% of road traffic accidents (hereinafter referred to as traffic accidents) occur in cities, with more than half being concentrated at intersections. Therefore, the problem of organization and traffic safety is the most important task, the quality and reliability of the functioning of the entire urban transport system and the possibility of implementing the necessary engineering and technical solutions, including reducing traffic accidents, depend on the correct solution (Ivanova & Filippov, 2019). Thus, the state should pay attention to increasing the number of measures to prevent accidents.

4 CONCLUSIONS

Thus, based on the analysis of the positive experience of foreign countries in the field of road transport, it is proposed to introduce:

- punishment in the form of imprisonment for being in an improper technical condition of the vehicle; for driving a vehicle by a person who does not have a driver's license; for driving a vehicle by a person who is intoxicated (experience of Japan, USA (in some states));
- the possibility of lifelong deprivation of the right to drive vehicles (the experience of Denmark, Norway);
- application of penalty points for offenses in the field of road safety (France, Israel, USA, Great Britain).



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Thus, the level of legal culture of both citizens and officials is of great importance, including in the field of road safety. The higher the level of legal culture of legal entities, the fewer offenses will be committed, and the laws will be implemented more effectively. Therefore, it is necessary to make changes in the legislation by bringing them as close as possible to the best examples of democratic states governed by the rule of law and to take measures to prevent offenses in this area. Thus, borrowing the experience of foreign countries in the field of administrative liability for traffic violations in the current context of Ukraine's European integration is quite important and needs to be applied: in adjusting the types of administrative penalties for traffic violations; determining the size of administrative fines (take into account the amount of real damage); improving the system of accrual of penalty points; imposition of an administrative penalty in the form of application of several sanctions, etc.

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