



ROAD TRAFFIC SAFETY

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Key words: *road traffic, movement of people and items of their labour, mechanical transport means, accidents, administrative-legal regulation, law enforcement.*

Abstract: *In relation to the road traffic participants the concept of safety is definitely connected with the protection of their constitutional rights to life, health protection and safe working conditions. Taking into consideration the extremely high level of the road traffic accidents in Russia we are not going to dispute on the social significance of these rights protection. We are interested in the following: if these rights are enough to cover life-critical interests of citizens when the question is of their participation in the road traffic. In a wider interpretation road traffic presents one of the ways of covering public necessities for the spatial movement of people as well as items, means and products of their labour. We suggest expanding the concept of road traffic and using the term “sphere of road traffic” instead of “road traffic”.*

Therefore, safety in the sphere of road traffic will represent a social legal category, formed as the result of compliance and enforcement of legal norms, and the system of public relations.

As a result of the growth of motor vehicles number the road traffic gets itself noticed as one of the social factors considerably influencing on the status of public order in general.

In administrative legal literature the term “law order” is mostly often used as the synonym of the public order (in the narrow sense) which implies the system of public relations appearing and developing mainly in public places on the basis of adherence to the right norms and other social norms aimed at ensuring citizens’ personal safety and public safety, establishing favourable environment for the normal operation of enterprises, companies, organizations and non-governmental associations, for citizens’ labour and rest, for the respect of their honour, dignity and public morality¹.

On this basis we will try to analyze the mechanism of administrative legal regulation of public relations in the sphere of road traffic.

Distinguishing a definite complex, possessing the specific character and therefore reasonably requiring separate normative legal regulation, from the extreme variety of the existing in the society social relations is carried out with the help of relative characteristics.

According to I.I. Veremeenko, these characteristics in the sphere of public order security include the place of occurrence, essence and aims of regulation².

Meaning of road traffic given by the Russian Federation Law “On road traffic safety” contains an indication at the display of two mentioned characteristics in public relations of

the road traffic participants. Place of occurrence is limited by the bounds of road and surrounding area. Essence of relations consists in enforcement of citizens, society and state necessity for cargo transfer and transportation with the help of means of transportation or without them.

Therefore, in order to solve the issue of the character of this complex of public relations as a subject of legal regulation and method for the determination of their regulation and thereby a branch of law with the help of which the organization of the road traffic is carried out, it is necessary to formulate the main aims of their regulation.

Specialists determine the intended purpose of the road traffic organization in different ways: “sufficiently quick, safe and comfortable flow of traffic and pedestrians” (G.I. Klinkovshane, M.B. Afanasiev)³, “ensuring speed and safety” (V.V. Lukyanov)⁴, “achievement of efficient, unrestricted and quick traffic and simultaneously prevention of traffic accidents and other incidents on the roads” (T.M. Metson)⁵.

The Federal Law “On road traffic safety” interprets safety as the status of this process, reflecting the degree of protection of its participants from the road traffic incidents and their consequences, while in the Russian Federation Law “On security” safety is determined as the degree of protection of life-critical interests of person, society and state from the external and internal threats. At that, it is suggested to refer rights and liberties of a person to the personal interests and spiritual and material assets⁶ of a person – to the interests of society.

According to the point of view expressed in the administrative legal literature more than 20 years ago, “to ensure road traffic safety means to achieve the decrease of the total number of road traffic incidents, number of dead and injured people in the conditions of automobilization development”⁷, preserves its meaning till the present. Consequently, the concept of safety in relation to the participants of the road traffic is exactly connected with the protection of their constitutional rights to life, health protection and safe working conditions. Considering the high level of road traffic accidents in Russia we are not going to dispute on the social significance of these rights protection, we are interested in the following: if these rights are enough to cover life-critical interests of citizens when the question is of their participation in the road traffic. Road traffic features one of the ways of covering public necessities for the spatial movement of people as well as items, means and products of their labour. Society’s life-critical interest consists in satisfaction of this necessity.

Leading role among the road traffic participants belongs to drivers. In real life drivers execute their activity in the conditions of constant risk while executing constant control over the means of transportation with the purpose of ensuring its stability and entirety in traffic, as well as safety of the road traffic participants’ life and health. Otherwise a driver cannot fulfill the necessity for transportation. Consequently, the content of the safety concept as the status of life-critical interests’ protection should also include protection of road traffic participants’ interest in an absolute fulfillment of their personal necessity for movement and not only preservation of life and health.

Considering the extent of road traffic, protection of this interest acquires public and national meaning. Introduction of this characteristic into the concept of road traffic safety determines the necessity of making changes in the safety estimation criterion, so in this case it is worth taking into account the possibility of occurrence of the condition leading to the uncontrolled movement of transport facilities. It is also worth paying attention to such important indicator of the quality of fulfilling the necessity for transportation as the speed. Time of participation in the road traffic presents expenses which are mandatory and therefore nonproductive for the absolute majority of road traffic constituents. It follows from here that the common desire of all road traffic participants is to reduce the time of presence in the road traffic and to speed up the time of movement as much as possible.

It is also worth indicating one more characteristic of determination of the road traffic

order which is the minimization of costs on physical resources which are technologically necessary for the spatial movement of transportation means and pedestrians. Here we should also include the resources which should be spent on the accomplishment of traffic management measures.

Consequently, the aim of road traffic regulation as the sphere of public relations consists, first of all, in minimization of the possibility of the loss of stability of mechanical transport means because of a driver's lack of control over it, and, secondly, in the loss of time and expense on physical resources while accomplishing socially necessary volume of people and cargo transportation.

Though all abovementioned characteristics have social economic content, they are determined by the technological properties of the road traffic. In addition to that road traffic has a strictly social constituent. First of all, it is presented by the fact that the transport means used in road traffic belong to somebody, and the transportation of people and cargo is an operating activity and means of certain material values obtaining. That is why one more aim of the road traffic relations regulation should include protection of personal, social and national interests from illegal actions directed at property rights protection.

It seems that under the legal influence road traffic acquires certain order which in this way will act as a constituent element of the public order. Its main features are, first of all, occurrence and development of public relations in public places in the process of people interaction; secondly, ensuring personal and public safety and therefore circumstances of tranquility, consistency and rhythmical recurrence of public life by means of legal or other social regulation of these relations⁸. Road traffic order established due to the legal regulation has all characteristics of public order, but in a peculiar expression, derivative of peculiarities of public necessity, causing occurrence and development of this complex of public relations and ways of its fulfillment. Establishment and maintenance of road traffic order implies the use of different regulation methods and administrative legal method as the major one.

Administrative legal method is, first of all, characterized by the legal influence in the form of positive obligations and prohibitions which is executed upon imperative terms when the legal energy comes from the empowered party,

With regard to the public order, administrative legal regulation executes, first of all, a law enforcement function⁹. Admitting this statement, we, however, note that road traffic is a sphere of public relations mediated by the use of equipment, and as these are artificially created relations they require much more positive regulation than other types of public order relations.

How are the public relations between the road traffic participants regulated? First of all, they are determined by the character of executed work – making and implementing decisions on traffic conditions (speed, direction – what we define as speed vector control). Taking into consideration that road traffic participants are characterized by the high level of uncertainty which can lead to conflicts in relation of the use of space, resulting in the uncontrolled movement of means of transportation, the possibility of making optimal decision depends on completeness, accuracy and timeliness of the used information. Administrative influence on the road traffic participants is carried out, firstly, by the system of special information which informs on the subsequent conditions of movement and, secondly, by the regulation of their decisions in different situations by means of special instructions on positive obligation or prohibition of actions.

In these conditions the necessity of improving law-enforcement system, the basis of which is formed by protective legal norms regulating the system of administrative enforcement measures, becomes more evident.

It follows from the abovementioned that ensuring safety of road traffic participants in administrative legal aspect should present a set of measures directed at enforcement of norms

regulating the order of occurrence, development and protection of public relations.

Consequently, from our point of view the existing concept of “road traffic safety” does not reflect all the variety of public relations appearing in connection with the fulfillment of the society’s necessity for transport. They are much wider as the process of transport movement is preceded by the processes of its preparation.

With due regard to it we suggest expanding the concept of road traffic by means of including a complex of public relations being built at the stage of preparation and organization of the process of directly spatial movement. On this ground it is suggested to use the term “sphere of road traffic” instead of “road traffic”.

Road safety depends on many factors: condition of law enforcement, development of automobilization, peculiarities of man and equipment interaction, roads and residential places improvements, road traffic organization, living standards and culture of society. At present it is ensured at different degrees by several mechanisms of state regulation (licensing, certification, standardization, accreditation), where the right norms of different nature take part.

On the basis of the abovementioned we can make a conclusion that safety in the sphere of road traffic which is a type of public safety is considered as a specific condition of public relations regulated in the result of rulemaking and enforcement for the purpose of excluding real and potential threats for the road traffic participants, degree and quality of their protection from the road traffic accidents and their consequences while accomplishing socially necessary movement of people and items of their labour.

Therefore, safety in the sphere of road traffic will represent a social legal category, formed as the result of compliance and enforcement of legal norms, and the system of public relations protected by the state.

Consequently, the concept of “safety in the road traffic sphere” can be considered as an independent legal category as it is based on the analyses of the reality. That is why the category of “safety in the sphere of road traffic” reflects real legal phenomena and has its functional assignment – ensuring and recovery of law enforcement, prevention of law violation in the sphere of road traffic.

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Ключови думи: пътен трафик, движение на хора и елементи на техния труд, средства за механичен транспорт, инциденти, административно-правна регулация, прилагане на закона.

Резюме: Във връзка с участниците в пътния трафик, концепцията за безопасност определено е свързана със защитата на техните конституционни права, защитата на здравето и безопасни условия на труд. Имайки в предвид изключително високото ниво на пътни инциденти в Русия ние нямаме намерение да оспорваме социалната значимост на тези права за защита. Интересуваме се от следното: ако тези права са достатъчни да покрият жизнено-критичните интереси на гражданите когато става въпрос за тяхното участие в пътния трафик. В по-широко тълкуване пътния трафик представя един от начините за покриване на обществени потребности за пространственото движение на хора, както и елементи, средства и продукти на техния труд. Ние предлагаме разширяване на концепцията за пътния трафик и използването на термина „сфера на пътния трафик” вместо „пътен трафик”.

Следователно, безопасността в сферата на пътния трафик ще представлява социална правна категория, формирана в резултат на спазването и прилагането на правни норми и системата на обществените отношения.