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## **Legal Principles of Safety of Road Transport and the Place among them of Administrative-Legal Regulation**

*The purpose of the article is to consider the legal basis for ensuring safety in road transport and to determine the place among them of administrative-legal regulation. In the article, on the basis of the analysis of scientific opinions of scientists and the norms of the current legislation of Ukraine, the legal principles of safety of road transport are considered and the place of administrative-legal regulation among them is defined. Author's definition of the concept «legal principles of safety in road transport» is given. It was emphasized and grounded that it is the norms of administrative law that regulate most of the legal relations connected with ensuring the safety of motor transport traffic. It is stated that the norms of the outlined industry contribute to the achievement of the state of stability of legal relations in the field of safety of road transport. Conclusions Under the legal principles of safety of road transport, a set of legal acts of various legal force, the norms of which are aimed at creating conditions under which the operation of motor transport will be safe for human life and health, should be understood. A key place among such principles is administrative-legal regulation. The rules of administrative law regulate most of the legal relations related to ensuring the safety of the movement of motor vehicles. The importance of the norms of administrative law is evidenced by the fact that the regulation of activity of road users is carried out through public authorities, which also falls within the scope of the rules of administrative law. In addition, in the vast majority of cases, for violating the norms of the current legislation, the measures of administrative coercion, including administrative liability, are applied to road users. Thus, the norms of the defined field of law contribute to the achievement of the state of stability of legal relations in the field of safety in road transport.*

**Keywords:** legal principles; normative-legal act; legal regulation; road transport; safety.

**Problem statement.** Transport in the modern world has become an integral part of the life of every person. The quality of functioning of motor transport depends on the activities of people in many spheres of public life, for example: the organization of uninterrupted trade, the speed of trade, the cost of production, efficiency and continuity of production activities. However, despite all the positive aspects of road transport, it is a source of increased danger, because it is on the highways of Ukraine, more people are killed than in all other modes of transport in their totality. This clearly confirms the statistics. Thus, for the first five months of 2018, almost 60,000 road accidents (hereinafter referred to as accidents) occurred on the roads of Ukraine, in which

10,000 people were injured and about 1,300 people died. The key cause of all traffic accidents was the non-observance of traffic rules, in particular the significant excess of speed.

It should be noted that the problem of safety in road transport became relevant even after the world's first fatal accident, committed on August 17, 1896 in London, after the driver of the car (Arthur Edsel) exceeded the permissible speed in the city (which at that time, was 4 miles per hour) almost twice. At that time, a 44-year-old woman (Bridget Driscoll) came to the carriageway, seeing that she was riding a car, tried to protect her from an umbrella that she certainly could not. Interesting is the fact that after a six-hour consideration of the first death toll in history, the jury ruled that it was an accident that occurred due to the carelessness of the pedestrian. After the above-mentioned case, the situation with safety of road transport has changed significantly. The increase in the number of motor transport only worsened the situation and became a further impetus for the formation of international legislation in the field of road transport safety.

**Analysis of recent research and publications.** In recent years, the problem of safety in road transport has been the subject of research in the work of many scientists. In particular, the attention paid to this issue over the past fifteen decades has been given to the problem of road safety in Ukraine: G. Shkarevsky, V. Shmelev, O. Demyanyuk, V. Khitrik, A. Kashkanov, O. Grisyuk, V. Torlin, V. Anisimov, V. Rebedailo, G. Halimshina, O. Salmanova, A. Sobakary, Ye. Kuznetsov and many others. However, despite a large number of scientific works, a single comprehensive study on the legal framework for road transport safety and location has not been held. The above, in our opinion, is significant in the short run, but it determines the relevance of the issues identified in the submitted scientific work.

That is why the purpose of the article is: to consider the legal principles of ensuring safety in road transport and to determine the place among them of administrative-legal regulation.

**Presenting main material.** The beginning of the statement of the main material should first be determined by the concept of «legal principles» and «legal regulation». Yes, according to N. Aslanyan, the legal basis can be interpreted in several forms, depending on the methodological orientations, namely: the objective factors of the creation; guiding ideas that have been consolidated in positive law, that is, are the principles of law [1, p. 6]. Thus, based on the above points of view of the scientists, it can be argued that researchers in different ways approach the issue of interpreting the notion of «legal

ambush». In general, if we approach this problem more generally, then all scientific points of view on this subject can be divided into two groups, namely: 1) those who identify the principles with the principles, that is, they apply such terms as synonyms; 2) those who understand the principles as a set of normative legal acts, the provisions of which determine the key legal parameters and legally significant properties of a particular issue, on the settlement of which such acts are directed. In general, each of these positions is righteous and does not contradict each other, the difference between them is that the first is narrower than the other [2, p.157]. In turn, we tend to support a wider interpretation of this notion.

As for the definition of the essence of the second category, in particular, «administrative-legal regulation», we note that in the legal literature there is no single approach to its interpretation. Yes, Yu. Tikhomirov noted that administrative-legal regulation is a mechanism of imperative-normative ordering and organization of the activities of entities and objects of management and the formation of a stable functioning order. Duration of the cycle of consistent actions, inducing the subjects of the right to act independently, exercise their rights and perform their duties within the established regimes and procedures, ensuring the stability of their functioning – such an appointment and manifestation of this regulation [3, p. 379]. Considering the essence of administrative-legal regulation it is necessary to agree with the point of view P. Pavlik, who argues that administrative-legal regulation – a special type of legal regulation, the specificity of which is determined by the object of influence, that is, relations governed by administrative law, due to the peculiarities of its norms. The feature of administrative law, unlike other branches of law, is that it often regulates the application of the norms of other branches of law, in particular constitutional law [4, p. 92].

In order to confirm the thesis that a special place among the legal principles of ensuring safety in road transport is administrative-legal regulation, it is worth considering separate regulatory legal acts in the defined sphere of public relations, depending on their legal force. First of all, the Basic Law of our state, the Constitution of Ukraine, which proclaimed that the person, her life and health, honor and dignity, inviolability and safety are recognized in Ukraine as the highest social value, should be mentioned in the first place. Human rights and freedoms and their guarantees determine the content and direction of the state's activities. The state is responsible to a person for his activities. The assertion and guarantee of human rights and freedoms is the main duty of the state [5]. And so, the state took on

the responsibility to secure safe living conditions in all spheres of social relations.

The next large group of normative legal acts is taken by international legal acts, which were ratified by the Verkhovna Rada of Ukraine. Considering the international legal acts, it should first be noted that the foundations of the development of public administration mechanisms in the field of road safety were laid by the adoption of the Geneva (1949) and Vienna (1968) Conventions on Road Traffic. The documents provided for the unification of national legislation in the field of road safety and increase its security [6, p. 97]. In addition to the above-mentioned international legal acts, the following should be specified: the Convention on the Contract for the International Carriage of Goods by Road of 19.05.1956; Convention on International Carriage of Passengers and Luggage by Road, of 09.10.1997; Convention on Road Traffic of 08.11.1968; Convention on Road Signs and Signals of November 8, 1968; etc.

The next large group of normative legal acts is the ordinary laws of Ukraine. Ordinary laws are those that make up the current legislation, they are accepted in the usual way – by a simple majority of votes. Among the usual laws in recent years are the basic, system-forming, regulatory. Basic laws include laws that establish a certain level, scope or limits of regulation of relations that require new conceptual arrangements for regulation [7]. Therefore, in the context of the identified issues to the laws governing the legal relationship related to the safety of road transport, the Laws of Ukraine:

– «On Road Traffic» Act of June 30, 1993. This Law has defined the legal and social bases of the traffic in order to protect the life and health of citizens, creating safe and comfortable conditions for participants of the movement and protection of the natural environment. The specified normative-legal act is intended to regulate social relations in the sphere of traffic and its safety, defines the rights, responsibilities and responsibilities of the subjects – participants of the traffic movement, ministries, other central bodies of executive power, associations, enterprises, institutions and organizations regardless of ownership or management [8].

– «On the Transport of Dangerous Goods» dated April 6, 2000, which defined the legal, organizational, social and economic principles of activities related to the transport of dangerous goods by rail, sea, river, road and air transport. Moreover, given the legal act defined the basic task of legislation on the transport of dangerous goods: definition and basic principles of state policy in the transport of dangerous goods; definition of legal principles of state administration and state regulation of safety in the field of

transportation of dangerous goods; establishment of rights, duties and responsibilities of subjects of transportation of dangerous goods [9].

– «On Road Transport» of April 5, 2001, which defined the key principles of the organization and activities of motor transport. In addition, this legal act was intended to regulate relations between motor carriers, customers of transport services, executive bodies and local self-government bodies, passengers, owners of vehicles, as well as their relations with legal entities and individuals – business entities, which provide road transport and traffic safety [10].

– «On the National Police of Ukraine» of July 2, 2015, according to which a radically new state authority was established – the National Police of Ukraine, which was created to serve society through the protection of human rights and freedoms, the fight against crime, the maintenance of public security and order [11]. The adoption of this Law changed the approach of the Ministry of Internal Affairs to ensure security on the roads of Ukraine. In addition, in July of the same year the Regulation on the patrol service of the Ministry of Internal Affairs was adopted. The specified regulatory act determined that the Patrol Service, in accordance with the tasks assigned to it, carries out round-the-clock patrolling of the territory of service in order to ensure proper protection of public order, public safety and control over observance of traffic rules, ensuring its safety. In case of need, it regulates traffic [12] etc.

And the last group of acts is subordinate legal acts. Sub-legislative legal act – a normative act issued on the basis of the law, in accordance with the law and aimed at its implementation by specifying legislative requirements or establishing primary norms. The word «subordinate», emphasizes O. Skakun does not mean less legal binding of this act than a normative legal act. Sub-legislative act has the necessary legal force. True, his legal force does not have the same universality and supremacy, as is the law. However, he occupies an important place in the system of legal regulation, because it ensures the implementation of laws through a specific, detailed regulatory regulation of the whole complex of public relations [13]. Consequently, it is worthwhile to attribute to the sub-legal normative legal acts in the presented sphere of social relations:

– Decisions of the Cabinet of Ministers of Ukraine: «On the Rules of the Road» of October 10, 2001;

– On approval of the Procedure for the implementation of state control in motor transport from November 8, 2006;

– Regulations on the State Service of Ukraine on Transport Safety from February 11, 2015;

– On approval of the Regulation on the Ministry of Infrastructure of Ukraine dated June 30, 2015; etc.

The importance of sub-normative legal acts is stipulated by the fact that they are called to clarify the provisions of the Laws and other normative legal acts of higher legal force. It is these acts, taking into account the above, allow more detailed regulation of the activities of state authorities in the field of road transport safety.

**Conclusions.** To conclude, we note that under the legal principles of ensuring safety in road transport it is necessary to understand a set of normative legal acts of various legal force, the norms of which are aimed at creating conditions under which the operation of motor transport will be safe for human life and health. Summarizing all the material in the article, we can confidently state the fact that the key place among such principles belongs to administrative-legal regulation. The said thesis is explained by the fact that it is the norms of administrative law that regulate most of the legal relations connected with ensuring the safety of motor transport. The importance of the norms of administrative law is evidenced by the fact that the regulation of activity of road users is carried out through public authorities, which also falls within the scope of the rules of administrative law. In addition, in the vast majority of cases, for violating the norms of the current legislation, the measures of administrative coercion, including administrative liability, are applied to road users. Thus, the norms of the defined field of law contribute to the achievement of the state of stability of legal relations in the field of safety in road transport.

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## **Правові засади забезпечення безпеки на автомобільному транспорті та місце серед них адміністративно-правового регулювання**

*Мета статті – розглянути правові засади забезпечення безпеки на автомобільному транспорті та визначити місце серед них адміністративно-правового регулювання. У статті на підставі аналізу наукових поглядів учених і норм чинного законодавства України визначено правові засади забезпечення безпеки на автомобільному транспорті, місце серед них адміністративно-*

правового регулювання. Сформульовано авторське визначення поняття «правові засади забезпечення безпеки на автомобільному транспорті». Обґрунтовано, що саме норми адміністративного права регулюють більшість правовідносин, пов'язаних із забезпеченням безпеки руху автотранспорту. Констатовано, що норми окресленої галузі сприяють досягненню стабільності правовідносин у сфері забезпечення безпеки на автомобільному транспорті. **Висновки.** Правовими засадами забезпечення безпеки на автомобільному транспорті слід вважати сукупність нормативно-правових актів різної юридичної сили, норми яких спрямовано на створення таких умов, за яких експлуатація автомобільного транспорту буде безпечною для життя та здоров'я людини. Ключове місце серед таких засад належить адміністративно-правовому регулюванню. Норми адміністративного права регламентують більшість правовідносин, пов'язаних із забезпеченням безпеки руху автотранспорту. Важливість норм адміністративного права засвідчує, що регулювання діяльності учасників дорожнього руху відбувається через органи публічної влади, що також належить до сфери впливу норм адміністративного права. Здебільшого за порушення норм чинного законодавства до учасників дорожнього руху застосовують заходи адміністративного примусу, зокрема й адміністративну відповідальність. Норми окресленої галузі права сприяють досягненню стабільності правовідносин у сфері забезпечення безпеки на автомобільному транспорті.

**Ключові слова:** правові засади; нормативно-правовий акт; правове регулювання; автомобільний транспорт; забезпечення безпеки.