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TÍTULO: El concepto de responsabilidad administrativa por violaciones en el ámbito del tráfico rodado.

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RESUMEN: En el Código de Delitos Administrativos de la Federación Rusa no existe una definición del concepto de responsabilidad administrativa; su interpretación se puede encontrar en trabajos de científicos cuyos estudios están dedicados a este tipo de responsabilidad legal o coerción administrativa en general. En la ciencia jurídica, todavía no existe un enfoque uniforme para la definición del concepto de responsabilidad administrativa, por lo que este problema sigue siendo relevante y discutible. El artículo analiza los principales puntos de vista de los científicos sobre el concepto de delito administrativo y examina en detalle los signos de estos delitos en el campo del tráfico vial. El estudio reveló que los signos de infracciones administrativas en el campo del tráfico rodado son: peligro público, negligencia, culpabilidad, sanción.

PALABRAS CLAVES: delito administrativo, sanción, acto ilícito, responsabilidad administrativa, legislador.

TITLE: The concept of administrative responsibility for violations in the field of road traffic.

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ABSTRACT: In the Code of Administrative Offenses of the Russian Federation there is no definition of the concept of administrative responsibility, its interpretation can be found in the works of scientists whose studies are devoted to this type of legal responsibility or administrative coercion in general. In legal science, there is still no uniform approach to the definition of the concept of administrative responsibility, therefore this problem is still relevant and debatable. The article discusses the main points of view of scientists on the concept of an administrative offense, examines in detail the signs of administrative offenses in the field of road traffic. The study of this topic revealed that the signs of administrative offenses in the field of road traffic are: public danger, wrongfulness, culpability, punishability.

KEY WORDS: administrative offense, punishability, wrongful act, administrative responsibility, legislator.

INTRODUCTION.

Administrative responsibility is a type of legal responsibility that has been the subject of much research. From the point of view of N.G. Salishcheva, the institution of administrative responsibility needs to be improved (Salischeva, 2009). It must constantly develop, like other areas of legislation, simultaneously with the development of the democratic foundations of our society, the increase of its economy and culture. This view is supported by the majority of researchers.

In the Code of Administrative Offenses of the Russian Federation there is no definition of the concept of administrative responsibility, its interpretation can be found in the works of scientists whose studies are devoted to this type of legal responsibility or administrative coercion in general. In legal

science, there is still no uniform approach to the definition of the concept of administrative responsibility, therefore this problem is still relevant and debatable.

So, according to I.A. Balagan, administrative responsibility - is the application in the prescribed manner of administrative penalties, formulated in the sanctions of administrative law, to those guilty of administrative offenses, containing state and public condemnation, censure of their personality and illegal act, expressed in negative consequences for them, which they are obliged to fulfill and pursue the goal of their punishment, correction and re-education, as well as the protection of public relations in the sphere of state a systematic way (Balagan, 1970).

D.N. Bakhrakh points out that administrative responsibility is a punishment, along with disciplinary and criminal, which pursues the goals of private and general prevention of offenses (Bakhrakh, 2008).

The purpose of administrative responsibility is important - to stimulate the fulfillment by the subjects of the right of their duties.

DEVELOPMENT.

Discussion and results.

According to A.I. Kaplunova, legal responsibility (punishment) as a legal form of state coercion is a reaction of the state and its bodies to an illegal and punishable act (offense) (Kaplunov, 2006). It is expressed in the application to the guilty subject of measures of legal responsibility (punishment, foreclosure).

From the point of view of A.S. Dugenets, administrative responsibility - is a measure of state coercion, occurring for the guilty violation of legal regulations, entailing negative consequences for the perpetrator, restriction of property or moral interests, which is a state condemnation of the opposite action (inaction) committed in specific procedural forms (Dugenets, 2006).

To the point of view of K.S. Belsky, believes that the concept of responsibility should be defined not only through the application of punishment to the offender, but also to consider responsibility as a legal assessment of the act (Belsky, 2004).

With regards to the scope of traffic, V.I. Mayorov considers the concept of administrative responsibility to be the most successful as a measure of state coercion, expressed in negative consequences for the offender, occurring in the form of personal or property restrictions (Mayorov, 2009).

According to V.V. Golovko, administrative responsibility in the field of road traffic is responsibility for administrative misconduct of drivers of vehicles, other road users, as well as officials ensuring the safe operation of vehicles and roads, expressed in applying administrative punishments to guilty persons through authorized officials persons of government (Golovko, 2007).

It is obvious that the occurrence of adverse consequences arising from administrative responsibility is possible only if there are grounds specified by law, in the absence of which responsibility cannot occur. Such grounds are: regulatory basis, factual basis and procedural basis.

An administrative offense is the actual basis of administrative liability. According to Art. 2.1. Administrative Code of the Russian Federation an administrative offense is an unlawful, guilty act (inaction) of a natural or legal person, the responsibility for which is provided for by the Administrative Code of the Russian Federation or by the laws of the constituent entities of the Russian Federation. In accordance with this definition, an administrative offense, which is expressed outwardly in the form of an action (inaction), has a combination of the following features: wrongfulness, culpability, punishability.

The researchers consider anti-publicity, public danger and public harm to be signs of an administrative offense (Alekhin, 2003). These signs in the norm-definition, revealing the concept of an administrative offense and enshrined in Art. 2.1 Administrative Code of the Russian Federation, are not listed (Agapov, 2011).

Obviously, traffic offenses have an impact on road safety. The consequence of such a violation can be a traffic accident, that is, an event that occurred in the process of driving on the road of a vehicle and with its participation, in which people were killed or injured, damaged vehicles, structures, cargo or other moral damage. This damage is the actual materialization of the social danger of this act.

Criminal violations of traffic rules are characterized by a significant prevalence and increased public danger. The number of motor transport crimes is steadily increasing every year, which is directly related to the increase in the number of vehicles per capita. It seems that the growth dynamics of such crimes will tend to increase in the future. The increase in the number of crimes gives rise in turn to a variety of facts of road accidents that are different in circumstances, in which people were injured or killed (Migachev, 2018).

The events that occurred as a result of a violation of certain rules of road safety, in which motor transport necessarily took part, and after which harmful consequences occurred, are called a road traffic accident.

In the overwhelming majority of cases, road traffic accidents result from a violation of traffic rules by drivers, pedestrians, passengers, cyclists, as well as due to gross violations by employees of transport facilities of technical maintenance rules and poor road condition monitoring and traffic control. Thus, road traffic accidents, which resulted in serious adverse effects, less serious or serious injuries or death of the victim, are called road traffic offenses, that is, acts involving criminal liability in accordance with criminal law.

The remaining cases of road accidents are, as a rule, the basis of disciplinary, administrative and civil liability.

The subjects of an administrative offense are individuals and legal entities. The Code of Administrative Offenses of the Russian Federation identifies general and special subjects of this kind. The general subject of an administrative offense is recognized as sane persons who have reached the age of 16. A special subject of an administrative offense are legal entities or officials (members of the Federation Council, deputies of the State Duma and judges).

The most common special subject of offenses stipulated by chapter 12 is the driver (for example, Article 12.32 of the Administrative Code of the Russian Federation provides for administrative punishment for admitting to driving a driver who was intoxicated or who does not have the right to drive). The rules of the road as a driver recognize the person in control of which is any vehicle, as well as the driver, leading on the road mounts or herds.

A special subject of an administrative offense is the military, a minor, a pregnant woman, a disabled person of groups 1 and 2. The features of the subjects of administrative offenses are discussed in more detail in the subsequent paragraphs of this chapter.

The subjective side of an administrative offense is the mental attitude of the natural or legal person to the unlawful act and its consequences. According to N.Yu. Bush, the fault of the offender is the main element of the subjective side of an administrative offense (Bush, 2016).

Article 2.2 of the Administrative Code of the Russian Federation establishes two forms of guilt: administrative offenses committed intentionally, and administrative offenses committed by negligence.

An administrative offense is considered to be committed intentionally, if the person who committed the offense was aware of, allowed the unlawful nature of his act, foresaw the onset of their harmful consequences, and wanted them, or was indifferent to them. So, for example: in the case when the

driver of the vehicle did not understand which traffic light was on because of the bright sun and, consciously admitting that he was driving the traffic light, or referring to this fact indifferently, he moved to a red light, although Directly the occurrence of such harmful effects did not want.

It is also an offense committed with direct intent, it is possible to attribute the driver's passage to the prohibitory signal of the traffic light when he saw this signal, but he was in a hurry and did not stop the vehicle.

An administrative offense is deemed to be committed by negligence, if the person committing this offense foresaw the possibility of the onset of the harmful consequences of his action (inaction), but hoped and counted on preventing them, or did not anticipate the onset of such consequences, although he should have foreseen them.

According to N.F. Popova among such offenses can be attributed to the case when the driver arrived at the intersection at high speed, hoping to have time to stop the car at a signal prohibiting movement, but could not do it and went to the intersection to a red light, is a typical example of a careless offense committed by frivolity (arrogance) (Popova, 2018).

The position of Part 3 of Art. 2.1 of the Administrative Code of the Russian Federation is explained in paragraph 15 of the Resolution of the Plenum of the Armed Forces of the Russian Federation of March 24, 2005 No. 5 "On some issues arising from the courts when applying the Code of Administrative Offenses of the Russian Federation", which states that it is necessary to establish the guilt of both the official and legal entity in committing an administrative offense for which they can be brought to administrative responsibility for the same article of the special part of the Administrative Code of the Russian Federation.

Traffic accident, as a rule, the result of many circumstances, forming a set of causes and effects. Establishing the true causes of the violation of safety rules that led to the accident, and the circumstances that contribute to it, is not only one of the important tasks of solving the crime, but also an integral part of ensuring traffic safety and vehicle operation.

Thus, the violation of the rules of the road and the operation of vehicles is one of the most common types of offenses. The fight against them is getting tougher from year to year, the responsibility for committing such crimes is becoming more serious (Antonov, 2009).

In our opinion, administrative offenses in the field of road traffic, which caused or could result in material or physical harm, should be considered socially dangerous.

The next sign of an administrative offense is wrongfulness. Administrative offenses have double wrongfulness: they violate the regulatory norm and the administrative norm that protects this regulatory norm with its sanction.

Regulatory standards defining a strict procedure for all road users, the observance of which will ensure road safety, are the Rules of the road of the Russian Federation. This document is periodically updated in response to the changing needs of traffic control in modern conditions.

According to most researchers, the undisciplinedness of vehicle drivers and pedestrians has a great influence on the level of road safety (Semenov, 2015). The minor violations of the Rules of the Road by them are the main factor in the occurrence of traffic accidents.

The basis of accident prevention is the identification and intersection of administrative offenses. It is the identification of violations of the Rules of the road of the Russian Federation and the bringing of violators to justice is one of the main tasks of the traffic police. Strict compliance with the Rules of the road is the main condition for reducing accidents on the roads and the severity of their consequences.

The role of preventive measures in ensuring road safety is undoubtedly significant, but the effect of exceptionally precautionary measures makes sense before a violation of the Traffic Regulations of the Russian Federation, after the commission of an offense, responsibility must come, which in itself is a preventive measure.

The next sign of an administrative offense is punishability, which indicates the existence of a sanction for a specific wrongful act. That is, the punishability of the act suggests that in the substantive norms of the Administrative Code of the Russian Federation there are sanctions for violation of regulatory norms, the protection of which is ensured by administrative responsibility.

Rules of law, enshrining the rules of proper conduct, are regulatory rules, and protective rules establish responsibility for the violation of these rules. Thus, there is a stimulation of the subjects of law to comply with the established order of lawful behavior. That is, any rule of conduct should be protected from violation through the use of coercive measures. Otherwise, it would be illogical to act by the legislator, who, establishing a proper rule of conduct, prohibition, or restriction, does not take measures protecting the established norms of behavior from unlawful encroachment. In this case, the position of the state is unclear, its attitude towards the person who committed the violation of the established norm towards the requirement of compliance with this norm.

Currently, acts that violate a number of provisions of the Rules of the Road, having signs of illegality, public danger are not punishable. They are not provided with sanctions, despite the fact that their violation in practice often leads to harm as a result of traffic accidents. Here there is inconsistency of regulatory and protective legislation.

From our point of view, the punishability of an administrative offense in the field of road traffic that entailed harm is an obligatory sign of a wrongful act, implemented in a sanction provided by law, the use of which is intended to change the attitude of the person who committed the offense to his act.

CONCLUSIONS.

So, the punishability of violation of the Rules of the road, entailing harm, is the property of a wrongful act to cause adverse legal consequences for the offender provided for and established by the sanction of the administrative law.

Signs of an administrative offense in the field of road traffic are public danger, wrongfulness, culpability and punishability.

Exploring the views on the concept of administrative responsibility, in which scientists indicate very important features, we will try to formulate the concept of administrative responsibility for offenses in the field of road traffic as follows: administrative responsibility for offenses in the field of road traffic is a form of government coercion punishment by authorized officials on behalf of the state, in compliance with the established law on order Enforcement activities for the implementation of administrative responsibility plays an appraisal, punitive, restorative role, as well as the role of private and general prevention.

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