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TÍTULO: Características de los procedimientos por infracciones administrativas en materia de tráfico.

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RESUMEN: Las tareas de seguridad vial son urgentes, ya que hoy consisten en problemas socioeconómicos apremiantes que enfrentan la sociedad y el estado; tal es el caso del accidente de tráfico, que se ha vuelto especialmente agudo en la última década debido a la falta de correspondencia entre el número cada vez mayor de transportes y la infraestructura de transporte por carretera existente, la eficiencia insuficiente del sistema de seguridad vial y la baja discreción vial.

PALABRAS CLAVES: infracciones administrativas, derechos humanos, accidentes de tránsito, seguridad, legislación.

TITLE: Features of proceedings on administrative offenses in the field of traffic.

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ABSTRACT: The tasks of road safety are urgent as they today consist of pressing socio-economic problems facing society and the state; such is the case of traffic accident, which has become especially acute in the last decade due to the mismatch between the ever-increasing number of fleets and existing road transport infrastructure, insufficient efficiency of the road safety system, and low discretion road.

KEY WORDS: administrative offenses, human rights, traffic accidents, safety, legislation.

INTRODUCTION.

At the present stage of development of the legislation of the Russian Federation on administrative offenses, special attention is paid to issues of administrative regulation of proceedings on cases of administrative offenses in the field of traffic. And this is no coincidence, since ensuring road safety in the country directly depends on the effectiveness of administrative and jurisdictional activities, the goals of private and general prevention of administrative punishment can be achieved only if the inevitability of administrative responsibility of road users is ensured (Belykh, 2016).

It is worth noting that the level of public awareness in the field of traffic does not depend on a theoretical interpretation, but on the practice of applying the law, and in most cases the law is brought to citizens in an interpretative form, and its content may be distorted (Golovko, 2002). All efforts to ensure high efficiency of administrative proceedings in the field of traffic only by improving the current legislation do not give the desired result, since the quality of the law alone does not guarantee the effectiveness of its practical application (Golovko, 2004).

The administrative procedural activity of law enforcement bodies and courts in the field of traffic is focused not only on identifying relevant administrative offenses, applying administrative coercive measures and enforcing decisions, as well as on interacting with other participants in the jurisdictional process by implementing a wide range of joint actions regulated by procedural and material administrative law (Kikot et al., 2012).

The entire process of administrative proceedings has several procedural stages. Under the stages of production is understood the complex of the following in a strict sequence of interrelated actions necessary and sufficient for the adoption of a specific legally significant act (decision) in the case.

DEVELOPMENT.

Methodology.

The methodological basis of the research consists of general scientific, private scientific and special methods of cognition. The analysis method was used in the interpretation of regulatory legal acts, the study of special legal literature and the study of materials of judicial practice.

Discussion and results.

With regard to the field of traffic, questions of administrative proceedings were considered in the works of S.N. Antonova, V.T. Batyckho, E. Belykh, V.V. Golovko, V. Ya Kikot, P.I. Kononova, N.A. Kobozeva, et al. Administrative offenses proceedings in the field of traffic can be considered as a special type of jurisdictional activity, which differs in many specific for it and interdependent signs. Such signs make it possible to determine and characterize the content of substantive legal relations and substantive legal norms, the implementation of which is mediated by production itself (Klimovich, 2017; Kobozeva, 2013; Konjakulyan, (2018).

The proceedings on administrative offenses in the field of traffic can be considered as a special type of jurisdictional activity, which differs in a number of interdependent features inherent only to it. Consider the four stages indicated in relation to the proceedings on administrative offenses in the field of road safety (Kovalenko, 2019).

The first stage is the initiation and administrative investigation of an administrative offense in the field of traffic. Fixation and investigation are fixed in Art. 28.7 Administrative Code of the Russian Federation. From the point of view of L.L. Popov, the preparation of an administrative protocol and an administrative investigation are related to the stage of initiating an administrative offense case; strict measures are required for these measures in the Administrative Offenses Code of the Russian Federation within the framework of the rule of law (Popov, 2002).

The reasons for initiating this case are:

1. Direct detection by the traffic police of the Ministry of Internal Affairs of the Russian Federation, authorized to draw up protocols on administrative offenses, the necessary data available on the event of an administrative offense, as provided for in Chapter 12 of the Administrative Offenses Code of the Russian Federation.
2. Materials from law enforcement bodies, as well as from other state bodies, local self-government bodies, and public associations, containing data indicating the existence of an administrative offense event, as provided for in Chapter 12 of the Administrative Code of the Russian Federation.
3. Messages and statements of persons, as well as messages in the media containing data indicating the presence of an administrative offense event, as provided for in Chapter 12 of the Administrative Code of the Russian Federation.
4. Fixing an administrative offense in the field of traffic committed using a vehicle, working automatically in special technical means, having the functions of photo and film shooting, video recording, or by means of photo and film shooting, video recording.

5. Confirmation of the data contained in the message or statement of the vehicle owner that, in the cases provided for in paragraph 4 of this list, the vehicle was in the possession or use of another person.

There are three varieties of the form of initiating an administrative case: the first form is called simplified (administrative punishment is imposed without drawing up a protocol - Article 28.6 of the Administrative Code of the Russian Federation). An additional requirement for a simplified procedure for the proceedings is the absence on the part of the person in respect of whom the proceedings are being conducted challenging the existence of an administrative offense event and (or) the administrative penalty imposed, as well as the actual payment of an administrative fine at the place of the administrative offense (Vitruk, 2009).

In these cases, the protocol on the administrative offense is not drawn up, and the authorized official at the place of the administrative offense is issued a decision in the manner prescribed by Article 29.10 of the Administrative Code of the Russian Federation.

The second form is ordinary (drawing up a protocol on an administrative offense - Articles 28.2 - 28.5 of the Administrative Code of the Russian Federation).

And the third, last form, is complicated (administrative investigation - Article 28.7 of the Administrative Code of the Russian Federation). An administrative investigation is a complex of time-consuming procedural actions of authorized officials aimed at establishing all the circumstances of an administrative offense, their fixation, legal qualification and procedural design (Agapov, 2015).

The second stage of the proceedings is the consideration of an administrative case. This stage is often called the main one, primarily because it solves the fundamentally important questions about the guilt or innocence of a person in committing an administrative offense in the field of traffic, the assignment of an offender of one type or another of the administrative punishment provided for in Chapter 12 of the Administrative Code or the proceedings are terminated (Antonov, 2015).

When considering an administrative case, one should proceed from four types of jurisdiction: tribal, substantive, official, and territorial. Generic jurisdiction determines which authority is authorized to consider this administrative case (administrative or judicial).

The subject is defined in Chapter 23 of the Administrative Code of the Russian Federation, which lists judges, officials authorized to consider cases of administrative offenses, and also delimits jurisdiction between courts. Jurisdiction determines which official is authorized to consider the case.

Territorial - the place of consideration of the case is determined (Antonov et al., 2014).

The general rule states that the case of an administrative offense is considered at the place of its commission (part 1 of article 29.5 of the Administrative Code of the Russian Federation), but there are several exceptions:

- ✚ The case can be considered at the place of residence of the person in respect of whom the administrative case is being conducted if the person has filed a motion (part 1 of article 29.5 of the Administrative Code of the Russian Federation).
- ✚ In an administrative investigation, the case is examined at the location of the body that conducted the administrative investigation (Part 2 of Article 29.5 of the Administrative Code of the Russian Federation).
- ✚ Cases of administrative offenses of minors are examined at their place of residence (part 3 of article 29.5 of the Administrative Code of the Russian Federation).
- ✚ Violations in the field of traffic, recorded with the help of automatically operating special technical means having the functions of photo and film shooting, video recording, or means of photo and film shooting, video recording, are considered at the location of the authority to which these materials were received.

The case of an administrative offense in the field of traffic is considered within fifteen days from the date of receipt by the body, official authorized to consider the case, the protocol on the administrative offense and other case materials or materials obtained using automatically operating special technical means having photo functions and filming, videotaping, or means of photographing and filming, videotaping or within two months from the date of receipt by the judge, authorized to consider cases about, the protocol on an administrative offense and other case materials (part 1 of article 29.6 of the Administrative Code of the Russian Federation). The term may be extended, but not more than one month (Arzamastsev, 2017).

Based on the results of the consideration of the case on an administrative offense, the following decisions are made: on referring the case to a judge, to a body, official authorized to impose administrative penalties of a different type or size or to apply other measures of influence in accordance with the legislation of the Russian Federation; on transferring a case for consideration by jurisdiction, if it is found that the consideration of the case does not fall within the competence of the judge, body, official who examined it (Batyckho, 2016).

Revision of decisions or other decisions in cases of administrative offenses in the field of traffic is the next step after consideration of cases. Only a certain number of cases in certain cases of administrative offenses in the field of traffic go through this stage.

At the stage of proceedings on administrative offenses, the decision or other decision in the case may be appealed or protested.

This stage consists in the fact that in the case of administrative violations in the field of traffic, the authorized body (official), on a complaint from a person who has been brought to administrative responsibility, checks the legality and validity of decisions or other decisions in the case of an administrative violation and takes measures to eliminate violations of the law.

There is the following procedure for appealing against a decision in an administrative case: handed down by a judge - in a higher court; submitted by an official - to a higher authority, a higher official, or to a district court at the place of consideration of the case.

The final, fourth stage is the execution of decisions on cases of administrative offenses in the field of traffic.

The execution of judgments in cases of administrative offenses in this area is the final stage of proceedings in the case of administrative offenses. Execution of the decision begins after its entry into force.

The decision in the case of an administrative offense is binding on all government bodies, local authorities, officials, citizens and their associations, legal entities.

In the presence of circumstances due to which the execution of the decision on imposing an administrative penalty in the form of administrative arrest, deprivation of a special right, forced expulsion from the Russian Federation of a foreign citizen or stateless person or in the form of an administrative fine is impossible within the established time limits, judge, body, official, those who made the decision may postpone the execution of the decision for a period of up to one month (part 1 of article 31.5 of the Administrative Code of the Russian Federation).

So, for example, in case No. 5-14 / 2018, D. Vinokurov, driving a Toyota Corolla car, moved along A. Petrov St. from Malakhov St. towards Ostrovsky St. in Barnaul, in violation of paragraph 14.1 of the Decree of the Government of the Russian Federation of October 23, 1993 No. 1090 "On the Rules of the Road" did not give way to the pedestrian A. Varaksin, passing the carriageway of A. Petrov St. through an unregulated pedestrian crossing, as a result of which he was hit by it, causing health victim easy harm.

Vinokurov D.S., at the hearing guilty of an offense fully recognized, confirming the circumstances, set out in the case file, repented of their deed. He asked for an installment plan to pay the fine in connection with the difficult financial situation, since there is a minor child, the spouse and they do not work, they pay the debt on a mortgage loan.

The execution of an administrative sentence is terminated in the following cases:

1. Publication of an act of amnesty, if such an act eliminates the application of administrative punishment.
2. Recognitions that have lost force of the law or its provision establishing administrative responsibility for the deed, with the exception of the case of simultaneous entry into force of the provisions of the law that cancel administrative responsibility for the deed and establish criminal liability for the same act.
3. The death of a person brought to administrative responsibility, or declaring him dead in the manner prescribed by law.
4. Entering into the unified state register of legal entities entries on the exclusion of a legal entity held administratively liable from the unified state register of legal entities.
5. The expiration of the statute of limitations for the execution of an administrative sentence.
6. Cancellations of the decision.
7. The issuance of a decision to terminate the execution of the decision to impose an administrative penalty.

If the decision on the imposition of an administrative penalty has not been enforced within two years from the date of its entry into force, then such a decision is not subject to execution (Part 1 of Article 31.9 of the Administrative Code of the Russian Federation).

One of the problems of enforcement proceedings is the inability to enforce the decision to impose an administrative penalty in the field of traffic in the event of an absentee review of cases in courts.

Often, legal entities brought to administrative responsibility, at the time of execution of the decision on the imposition of administrative punishment, are already inoperative.

CONCLUSIONS.

Summing up, we can say that when applying the rules on administrative responsibility, it is necessary to take into account both the general provisions of the Administrative Code of the Russian Federation and a number of features that are inherent in the production of cases of violations in the field of traffic; for example, the initiation and investigation of an administrative offense in the field of traffic has its own peculiarities, special subjects with respect to whom administrative cases can be initiated and who can initiate them, as well as a special approach to the investigation of administrative offenses in the field of traffic.

The importance of reviewing decisions and decisions in cases of administrative offenses in this area provides an additional guarantee of a lawful and informed decision and protects the rights and freedoms of a person. In its case, the stage of execution of decisions and decisions on cases of administrative offenses in the field of traffic is relevant only when a person really undergoes adverse consequences in the form of punishment for his illegal acts.

Thus, we note a number of existing problems to be solved. So, the legislator has not defined a specific circle of persons authorized to conduct an administrative investigation, which requires amendments aimed at updating the provisions of Article 28.7 of the Administrative Code of the Russian Federation and its correlation with the provisions of the Administrative Code of the Russian Federation regulating jurisdiction. It is also necessary to more specifically “outline” the range of actions that can be carried out during an administrative investigation, while more specifically formulating the procedure for their implementation by analogy with the investigative actions in the Code of Criminal Procedure of the Russian Federation.

As for the stage of the initiation of proceedings, it is necessary to ensure the exercise of the right to protection of a person subjected to administrative prosecution from the moment a police officer suspects that the person committed an administrative offense. The solution to this problem seems to be to clarify the right to protection to a person even before the protocol is drawn up, with the preparation of the corresponding protocol.

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