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УДК 342.9

ADMINISTRATIVE AND LEGAL ENFORCEMENT MECHANISM OF PROPAGATION OF SAFETY OF ROAD TRANSPORT

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SUMMARY

The article is devoted to the problems of concepts and elements of administrative and legal enforcement mechanism of propagation of safety of road transport. The analysis of the legal literature, researching the concept of administrative and legal enforcement mechanism of propagation of safety of road transport, was carried out. The author's definition of the concept of «mechanism of propagation of safety of road transport» is formulated. The structural elements of administrative and legal enforcement mechanism of propagation of safety of road transport was characterized. It is pointed out that there is no definition of the propagation of safety of road transport in the legislation of Ukraine, as well as its goals, tasks, functions, and subjects.

Key words: road safety, propaganda, preventive measures, prevention of road accidents, administrative and legal enforcement mechanism of propagation of safety of road transport.

АДМИНИСТРАТИВНО-ПРАВОВОЙ МЕХАНИЗМ ОБЕСПЕЧЕНИЯ ПРОПАГАНДЫ БЕЗОПАСНОСТИ ДОРОЖНОГО ДВИЖЕНИЯ

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АННОТАЦИЯ

Статья посвящена проблематике понятия и элементов административно-правового механизма обеспечения пропаганды безопасности дорожного движения. Осуществляется анализ юридической литературы, по исследованию понятия административно-правового обеспечения пропаганды безопасности дорожного движения. Сформулировано авторское определение понятия «механизм административно-правового обеспечения пропаганды безопасности дорожного движения». Характеризуются структурные элементы административно-правового механизма обеспечения пропаганды безопасности дорожного движения. Указывается на отсутствие в законодательстве Украины определения пропаганды безопасности дорожного движения, ее целей, задач, функций, а также субъектов.

Ключевые слова: безопасность дорожного движения, пропаганда, профилактика, предупреждение дорожно-транспортных происшествий, административно-правовой механизм обеспечения пропаганды безопасности дорожного движения.

Formulation of the problem. Taking into account the modern transformation processes and increased number of road traffic accidents in our country, the problem of ensuring road safety became one of the most acute social problems in Ukraine. That is why the introduction of reasonable measures to improve the organization and increase the level of road safety, effective preven-

tion of road traffic injuries (hereinafter – RTI) becomes of particular importance. Amendments to the sanctions of articles on violation of the Rules of the road are often made by the legislation of Ukraine. In most cases, such sanctions are more stringent than previous ones. However, in our opinion, insufficient attention is paid to the issue of preventive measures, in particular, the propagation of road safe-



ty, which is an effective mechanism for ensuring an adequate level of road safety, as it is part of a single set of measures aimed at reducing accident rates, encouraging safe behavior of participants traffic, as well as increasing their level of legal awareness. This can be achieved through improvement administrative and legal enforcement mechanism of propagation of safety of road transport by all the ycima authorized subjects.

Statement of research. Researches of the questions of administrative and legal enforcement mechanism of propagation of safety of road transport were conducted by scientists: O.M. Bandurka, V.M. Beschasny, B.Y. Burbelo, I.I. Veremeenko, M.Y. Veselov, S.M. Gusarov, T.O. Gurzhiy, R.I. Denisov, Y.V. Dodin, M.M. Dolgopolova, V.V. Donenko, V.V. Yehupenko, V.I. Zhulev, V. K. Kolpakov, S.A. Komisarov, A.T. Komiuk, V.V. Lukyanov, O.L. Milenin, V.V. Novikov, A.M. Podolyaka, M.I. Popov, V.Y. Razvadovsky, O.Y. Salmanova, A.O. Sobakar, S.I. Sopilynyk, V.K. Shkarupa and others.

These scientists have made a significant contribution to the development of the study of administrative and legal problems of enforcement of propagation of safety of road transport. But today there are practically no comprehensive research on problems of the administrative and legal enforcement mechanism of propagation of safety of road transport in such conditions, when the law enforcement system in Ukraine is reforming.

Statement of issue. The study of administrative and legal enforcement mechanism of propagation of safety of road transport has practical importance for the further improvement of legislation of Ukraine in the field of road safety and improvement of law enforcement in this area. Therefore, the purpose of the article is to determine the definition of the mechanism of propagation of safety of road transport in Ukraine and to form the main structural elements of this mechanism, based on the analysis of legal literature and legislation, and the different views of academic administrators. To achieve the this purpose such problems should be solved: to find out the meaning of the terms: «legal enforcement», «administrative and legal enforcement of road safety», «administrative and legal enforcement of propaganda of road traffic safety» and «mechanism of administrative and

legal enforcement of propagation of road traffic safety» and structural elements of the said mechanism.

Presentation of the main material.

Due to the fact that the concept and structure of the mechanism of administrative and legal enforcement propagation of safety of road transport at the legislative level are not defined and for proper research of the mechanism of administrative and legal enforcement propagation of safety of road transport we consider it necessary to refer to the doctrinal provisions of the theorists of law and academic administrators. This will make it possible to understand the essence and legal nature of such a mechanism, and to establish the features in relation to its purpose – prevention of road traffic injuries and stimulation of safe behavior of road users, as well as increase their level of legal awareness.

In the science of administrative law today, the prevailing view is that legal support is a deliberate influence on human behavior and social relations through legal means [1, p. 327]. A.Y. Oliynyk said that legal provision – is the impact on the rights and freedoms of citizens with certain remedies, especially the norms of law [2, p. 160].

In our opinion, the legal support is always carried out by the authorized bodies of state power, by issuing compulsory legal norms and regulations. In view of this, legal protection of propagation in the field of road safety requires the understanding of the competent activities of authorized public authorities, which consists of issuing mandatory legal and mandatory regulations aimed at taking measures to prevent road traffic accidents and increase the protection of road users.

As the administrative and legal enforcement of propagation of road safety to be understood as part of the administrative and legal road safety and to determine the specified search concept, we turn to some local authors who have expressed their views on this occasion.

Considering the concept of «administrative and legal regulation» in relation to the transport system, V.Y. Razvadovsky points out that it is carried out by such a combination of methods of legal regulation, which is dominated by obligations and prohibitions. This combination is formed through the assignment of legal entities by subjective legal rights and the

assignment of their responsibilities by defining and consolidating in certain legal acts certain rules of conduct as a result of the law-making activity of authorized officials [3, p. 25–26].

According to V.F. Mutsko, administrative and legal regulation of road safety is a process by the state authorities of using special methods of influencing the functioning of public relations regarding the movement of people and goods by means of vehicles in order to minimize the risk of causing damage to life, health, property and other rights of participants of such a move, as well as reducing the number and severity of accidents [4].

S.A. Komisarov suggests to understand «the administrative-legal organization of ensuring road safety», as regulated by the norms of administrative law coordinated executive and regulatory activities of the subjects of management in the field of road safety, aimed at implementing the provisions of the law, the organization of accounting, control and supervision of the development of road infrastructure, the technical condition of vehicles, the disposal of material and financial resources, personnel work, and the associated use of moral and financial incentives, disciplinary and administrative measures to effectively impact on facilities management, improve road safety [5].

According to M.M. Dolgopolova, road safety activities should be understood as a system of actions to ensure the safe movement of people and goods by motor vehicles, as well as people without means of transport by roads, regulated by public authorities and is in a real danger of the occurrence of circumstances that prevent the continuation of this process [6].

With regard to the administrative and legal provision of rights of road users, V.A. Golovko successfully emphasizes in the dissertation, is regulated by law activities of public authorities, the content of which is to create conditions for implementation, protection and rights of citizens as road users using legal and administrative means. Such means include means of persuasion and coercion, means of administrative legal proceedings and means of direct and indirect protection of economic entities [7].

Particular attention deserves a scientific study of T.O. Gurzhiy, which defines the administrative and legal enforcement of road safety as regulated by the norms



of administrative law, the activity of bodies (officials) of public authorities, institutions, enterprises, organizations, citizens and their associations, which is directed at the prevention of road traffic accidents, detection and termination of violations of mandatory rules, norms and standards in the field of road safety, as well as prosecution of perpetrators in order to ensure a stable, safe and effective operation of national road transport [8, p. 299].

On the basis of the above considerations, in our opinion, the administrative law enforcement of the propagation of road safety – are the activities of propagation agents, regulated by the norms of administrative law, for the dissemination of knowledge relating to the issues of ensuring road safety, promoting the safe behavior of road users, as well as increasing their level of legal consciousness.

In order to define the concept of «the mechanism of administrative and legal enforcement of the propagation of road safety», in our opinion, it is necessary to analyze the essence of the concept of «mechanism of administrative and legal regulation».

O. F. Skakun suggests such a definition of the mechanism of legal regulation as taken in the unity of the system of legal means, methods and forms through which the normativity of law is translated into the ordering of social relations, the interests of the subjects of law are satisfied, law order is established and ensured [9, p. 656].

Worthwhile is the point of view of S.G.Stetsenko, who believes that the mechanism of administrative-legal regulation is a set of legal means by which the legal regulation of social relations in the sphere of administrative law is carried out [10, p. 624].

T.O. Kolomoets believes that the mechanism of administrative-legal regulation is a set of legal means through which the legal regulation of social relations in the field of administrative law is carried out [11, p. 32].

Interesting is the position of V. Hropanyuk, who under the mechanism of administrative-legal regulation suggests to understand the system of legal means by which the ordering of social relations is carried out in accordance with the purpose and tasks of the rule of law state. The structure of such a mechanism, in his opinion, is the rules of law, legal relations

and acts of realization of legal rights and obligations [12, p. 341–342].

At the same time, when investigating the administrative and legal principles of propagation of road safety, it is necessary to point out that the content of the mechanism of administrative and legal enforcement of propagation of road safety is the goal of preventing road accidents, promoting the safe behavior of road users, as well as increasing their level of legal awareness. The purpose of the mechanism of administrative and legal enforcement of propagation of road safety is achieved through certain means, which are ways of legal influence on the behavior of subjects and objects of state administration in this area.

According to V.V. Donenko, administrative and legal means constitute the most numerous, most powerful and most effective group of legal means of ensuring road safety [13, p. 88]. Thus, means of ensuring the propagation of road safety are different in nature and function, but their totality forms a formal sign of the mechanism of administrative and legal provision of road safety.

Taking into account such approaches to the definition of the concept of the mechanism of administrative-legal regulation and clarification of the goals of the mechanism of administrative-legal enforcement of propagation of the road safety allows us to argue that under the notion of the mechanism of administrative-legal enforcement of propagation of the road safety should be understood as a set of administrative and legal means that provide direct legal influence on the behavior of subjects and objects of public relations in the field of implementation of the road safety in order to ensure its effectiveness.

As S. Komissarov and V. Razvadovsky correctly note, the effectiveness of the functioning of the integrated mechanism of administrative and legal protection of relations in the field of road safety depends primarily on the system of administrative and legal norms, which provide for the use of measures to counter violations of rules, norms and standards in this area [14, p. 18; 20, p. 196].

The study of the mechanism of administrative-legal regulation of propagation of the road safety is impossible without the establishment of its constituent elements. It consists of: the rules of administrative law and their external expression –

sources of administrative law; public administration and principles of its activity; individual acts of public administration; administrative-legal relations; forms of administrative law; administrative law methods; administrative-legal regimes; interpretation of the norms of administrative law; administrative procedures [15, p. 251].

The above elements, in our opinion, are part of the mechanism of administrative and legal regulation of propagation of the road safety. The rather important point is that the need for effective advocacy in the field of road safety requires public administration also to establish rules of law of a subordinate nature. This is due to the fact that the general norms and rules of conduct formulated in the laws are not able to cover all aspects of the administrative-legal regulation of the propagation of the road safety, to settle it in all the details, and therefore there is a need to specify and detail the legislative norms to the stage of their application.

According to foreign experience, optimization of sectoral legislation and road safety management system is a key stage and at the same time an indispensable guarantee of the success of large-scale reforms aimed at reducing the socio-economic pressures of road accidents [16].

To date, the list of normative legal acts regulating the provisions on road safety is extremely high, in particular, the Laws of Ukraine: «On the National Police» [17], «On amendments to certain legislative acts of Ukraine regarding improvement of regulation of relations in the field of ensuring road safety» [18], «On the Road Traffic» [19], «On Road Transport» [20], Resolution of the Cabinet of Ministers of Ukraine «On Road Traffic Rules» and others.

Despite the fact that amendments to these regulations were made dozens of times, they do not meet the requirements of the present, duplicate some rules among themselves, contain contradictions, create legal conflicts, and therefore require modernization and restructuring. In addition, there is no clear regulatory definition of the key concepts of propagation of the road safety, ensuring the promotion of the road safety, its goals, tasks and functions, as well as the responsibilities of the propagandists in the field of prevention of RTI.

Further, it should be noted that normative acts of a general nature are issued



by various subjects of public administration – the Cabinet of Ministers of Ukraine, the President of Ukraine, the Ministry of Education and Science, Youth and Sports of Ukraine, etc.

The subjects of propagation of the road safety may include the Department of Patrol Police and its territorial (separate subdivisions), ministries, mass media, motor transport enterprises, public associations whose activities are related to traffic, as well as pre-school and other educational establishments. It should be noted that in today's conditions, due to the growing importance of the problem of ensuring road safety, this list should be significantly expanded, it should include other bodies of state and executive power, representatives of the public, commercial organizations, however, agreeing with the opinion of T.O. Gurzhii, the fuzzy and irrational division of powers of the subjects of the provision of the road safety leads to interagency conflicts, the mutual transfer of responsibility for the miscalculations and, ultimately, – to failures in the most important areas of work [7, p. 323]. Therefore, it is necessary to clearly identify which issues can and must be solved at the state and local levels, to determine the responsibility for specific areas of activity in the field of road traffic safety and its propagation.

It is clear that the scope of public administration generates administrative-legal relations, in which the parties are involved as carriers of rights and obligations established and provided by administrative-legal norms [21, p. 14].

According to V. Kolpakov, administrative-legal relations are the result of the influence of administrative and legal norms on the behavior of subjects of the sphere of public administration, as a result of which between them there are established legal ties of a state power character [22, p. 35–36].

The emergence, change or termination of legal relations is preceded by legal facts, under which in the theory of law understood different kinds of actions and events, which are called life circumstances. These circumstances are indicated in the hypotheses of legal norms when they arise in real life, which leads to the fact that certain subjects get the mutual rights and obligations, that is a legal relationship, or have changes in these legal relationships (volume or content the specified

rights and obligations, the composition of the subjects), or the legal relationship is terminated – the specified rights and duties disappear. Depending on their consequences, legal facts can be classified into law-making, law-enforcement and law-abiding [23].

Conclusions. In summary we can formulate the following conclusions:

1. The mechanism of administrative and legal enforcement of propagation of the road safety is a system of measures for ensuring road traffic, carried out by the propagation agents for the dissemination of knowledge relating to road safety issues, clarification of legislative and other regulatory legal acts regulating the behavior of participants of road traffic.

2. The structure of the mechanism of administrative and legal enforcement for the propagation of road safety contains the following elements: administrative law, administrative-legal relations, individual acts, forms and means.

3. The analysis of the mechanism of administrative and legal enforcement of propagation of the road safety and its structural elements is the basis for creating the necessary means of administrative and legal regulation of propagation of the road safety in order to reduce accidents and increase the legal awareness of road users.

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ОСОБЕННОСТИ МЕЖДУНАРОДНО-ПРАВОВОГО РЕГУЛИРОВАНИЯ ОТНОШЕНИЙ ПО РЕАЛИЗАЦИИ СТАНДАРТОВ УПРОЩЕНИЯ И ГАРМОНИЗАЦИИ ТАМОЖЕННЫХ ПРОЦЕДУР В СТРАНАХ НАФТА

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АННОТАЦИЯ

В данной статье исследуются особенности международно-правового регулирования отношений по реализации стандартов упрощения и гармонизации таможенных процедур в сфере международной торговли в странах НАФТА. Уделено внимание анализу правовой базы в сфере упрощения и гармонизации таможенных процедур, которая используется в странах НАФТА и осуществляется в двух основных направлениях: таможенное сотрудничество стран НАФТА на международном уровне в рамках авторитетных универсальных международных организаций и международных договоров и таможенное сотрудничество между странами членами НАФТА.

Ключевые слова: экономическая интеграция, упрощение и гармонизация таможенных процедур, электронное декларирование, уполномоченный экономический оператор, автоматизированные информационные системы.

PECULIAR PROPERTIES OF INTERNATIONAL LEGAL REGULATION OF RELATIONS ON IMPLEMENTATION OF STANDARDS OF SIMPLIFICATION AND HARMONIZATION OF CUSTOMS PROCEDURES IN THE COUNTRIES OF NAFTA

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SUMMARY

In this article, the peculiarities of the international legal regulation of the simplification and harmonization of the customs procedures in the field of international trade within the NAFTA are examined. The analysis of the extensive regulatory framework of the NAFTA in the field of the simplification and harmonization of the customs procedures is carried out in two main directions: customs cooperation of the NAFTA at the international level within the framework of the authoritative universal international organizations and international agreements and customs cooperation between the member states of the NAFTA.

Key words: economic integration, simplification and harmonization of the customs procedures, electronic declaration, authorized economic operator, automated information systems.

Постановка проблемы. В настоящее время изучение опыта стран НАФТА по международно-правовому регулированию отношений по реализации стандартов упрощения и гармонизации

таможенных процедур в сфере международной торговли является очень важным для Украины, прежде всего для эффективного приведения ее таможенного законодательства к международным стан-