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INTERNATIONAL TRAFFIC LEGISLATION AND TRAFFIC LAWS OF UKRAINE: VIOLATION OF TRAFFIC RULES, CODES AND STANDARDS

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SUMMARY

In the article international experience in the field of prevention road injuries is studied. Content of the most important multilateral road safety agreements is revealed. It is noted that due to the fact that Art. 288 of the Criminal Code of Ukraine contains a blanket disposition and for the purpose of determining criminal liability for a crime stipulated by art. 288 of the Criminal Code of Ukraine, great importance is the study, including international legislation on traffic and violations of rules, norms and standards concerning traffic safety.

Key words: international survey, road safety, violation of rules, norms and standards, provision of traffic.

МЕЖДУНАРОДНОЕ ЗАКОНОДАТЕЛЬСТВО И ЗАКОНОДАТЕЛЬСТВО УКРАИНЫ О ДОРОЖНОМ ДВИЖЕНИИ: НАРУШЕНИЕ ПРАВИЛ, НОРМ И СТАНДАРТОВ ПРИ ОБЕСПЕЧЕНИИ ДОРОЖНОГО ДВИЖЕНИЯ

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АННОТАЦИЯ

В представленной статье изучается международный опыт в сфере предупреждения дорожного травматизма. Раскрыто содержание важнейших многосторонних соглашений по вопросам безопасности дорожного движения. Обозначено, что в связи с тем, что ст. 288 Уголовного кодекса Украины содержит бланкетную диспозицию и для выяснения уголовной ответственности за преступление, предусмотренное ст. 288 УК Украины, большое значение имеет изучение в том числе и международного законодательства про дорожное движение и нарушение правил, норм и стандартов, касающихся обеспечения дорожного движения.

Ключевые слова: международный опыт, безопасность дорожного движения, нарушение правил, норм и стандартов, обеспечение дорожного движения.

Problem statement. At the turn of millennium intensive interaction and mutual adaptation of national economic systems have caused transition of the society to a new evolutionary development phase – a phase of political, economic and sociocultural globalization. Integration processes have covered the whole civilization which also concern a traffic infrastructure. Along with the change of the objective politico-economic conditions the mankind perceptions about threats constituting a danger to its stability and further progress, including concerning traffic provision. If until the mid 20th century military conflicts were considered the largest man-made disaster, then as the international situation becomes stable, the foreground is taken by the other global problems: environment deterioration, shortage of energy resources, fatality in the road traffic accidents (violation

of technical paving and sign-boarding standards), etc.

Review of the latest researches and publications. One of the key places among essential problems of the modern age is taken by the traffic accident rate. Recently social and economic consequences of this phenomenon have assumed an unprecedented scale. Every day 3,5 thousand people die on the roads of the planet, about 140 thousand receive injuries. Only in 2010–2012 the total number of victims of auto accidents reached 100 million people. According to the World Health Organization of the United Nations the traffic injury rate has now achieved the top ten major reasons of human fatality rate [1].

The economic aspect of the traffic accident rate is not least acute. Caused by it the losses of the countries of the world vary from 0,3% (Vietnam) to 4,6% (USA) of the gross national product, and their

total volume constitutes about 600 billion dollars a year (almost 18 times more expenses of the consolidated budget in Ukraine and 1,5 times – the consolidated budget of the Russian Federation). Eventually the force of the “socioeconomic blow” of the road traffic accidents only grows: under some forecasts the associated losses would exceed 1 trillion US dollars in 10 years.

The stated above causes to consider the accident rate as one of the types, which is caused by omission and violation of the traffic rules, codes and standards, the largest technogenic threat of the new time.

Basic material. Historical sources of the road safety problems originate in the nineties of 19th century when first in New York (on May 30th, 1896), and then in London (on August 17th, 1896) there were the first road traffic accidents with the injured persons (and in



the latter case as a result of the accident the person died). Since then a car began to be perceived by the society not only as innovative means of transportation, but also as a source of the increased danger. The same 1896 year the first attempts of the developed countries (Great Britain, Russia, USA) to normalize, regulate and what's the main – to secure the motor transport functioning. In particular, the decree of Traffic Ministry of the Russian Empire "On the procedure and conditions of transportation of cargo and passengers by road of the communication routes department in horseless carriages" appeared on September 11th, 1896, which applied to the majority of the territories of modern Ukraine.

Rapid development of motor industry at the end of 19th – beginning of 20th century (in 1910 the world car fleet totaled over a quarter of a million vehicles) was accompanied by occurrence of a enormous amount of national and local regulations of the traffic management. At last this tendency has generated a serious problem. By that time there were absolutely uncoordinated rules in many countries, regions and big cities that created inconveniences and additional risks during long travel.

Realizing danger of these processes, on October 11th, 1909, 12 leading states of the world (Great Britain, Italy, Russia, France, etc.) signed the Paris convention on motor traffic, which established "General traffic regulation rules". They were the first international road traffic regulations. These rules fixed the age qualification of drivers, requirements to the operating condition of vehicles, order of their traffic on the ways and streets, as well as 4 road signs: «Crossroads», "Rough road", "Dangerous bend" and "Railroad crossing" (all of them are extant) [2, p. 17, 18]. This way the history of multilateral relations in the road and transport field started.

Conclusion of the following contracts became its major landmarks: – Convention on motor traffic of 1926 (Paris). This convention entered technical criteria of the admission of vehicles to traffic on the general use roads, international certificate for cars (forerunner of the today's logbook), nomenclature of identification signs of vehicles, international driver's licence for driving vehicles of various categories, 6 road signs, as well as

the unified requirements to their forms, sizes and placing rules. Besides, the convention determined the bases of interstate information interchange about traffic offenders and originators of road accidents. In particular, the participating countries were obliged to report each other surnames, names and addresses of citizens which driving licences (certificates) were revoked; Convention on unification of road signals of 1931 (Geneva).

This document put into service the first universal classification of road signs which included 8 warning signs, 10 restrictive signs, 2 mandatory signs and 6 traffic signal (informative) signs. Unlike the previous agreements which supposed «coexistence» of the international and national control means, the Convention of 1931 contained the imperative requirement about the complete replacement of the road signs not provided by the international classification. It is remarkable that USA – the leader of the world car industry which accounted for about 75% of the total production of cars did not joined the Convention of 1931. It caused present disagreements between the North American and Euroasian traffic control means: the basis of the former is constituted by text messages, for the latter – graphic symbols prevail.

1. Traffic conventions as well as Protocol for traffic signs and signals. Both agreements were adopted under the aegis of the United Nations on September 19th, 1949 in Geneva. Among their main amendments it should be noted.

2. Forming of the base conceptual framework (such concepts as «road», «way», «driver», «car», «bicycle», etc. have been specified for the first time at the international level).

3. Ordering of driving rules (Convention of 1949 established 35 general requirements on driving of cars, buses, trolley buses, bicycles); – Transition to the unified driver's licences (however, under some circumstances countries-participants of the agreement were allowed to demand from foreign drivers international driving permission).

4. Expansion of the road signs list from 26 to 66; – Unification of other traffic control forms (gestures of the traffic controller, traffic light signals etc.). 95 countries have joined the traffic convention of 1949, among which:

33 countries represent Europe, 19 – North and South America, 23 – Africa, 17 – South, Central and East Asia, 3 – Oceania. However, the Protocol for the road signs has not obtained the same broad support – it was ratified only by 39 states (basically – representatives of the Euroasian region).

5. Traffic conventions and Convention on traffic signs and signals of 1968 (Vienna).

In the late fifties the European economic commission of the United Nations begun development of the package of documents on the traffic management improvement. At first it had to be a complex of changes and additions to the agreements of 1949, but subsequently, in the process of accumulating of planned changes, the primary plan has outgrown into conclusion of two new international agreements.

The first of them (Traffic convention) has specified the principles of the modern road traffic regulations. It established the general requirements to admission of drivers to driving, location of vehicles on the traffic area of roads, maneuverings, speeds, stops, parking, passing of crossroads and railway crossings, vehicle inspection, carriage of passengers and cargo, pedestrian traffic, behaviour of road accident participants, use of special signals, registration numbers, identification signs, etc. In turn the Convention on road signs and signals updated system of traffic control means has expanded the nomenclature of traffic signs, having unified their form, contents, as well as placing rules. These conventions of 1968 became the first international traffic acts signed directly by Ukraine, as the full member of the United Nations Organization. Beside Ukraine they have been signed or ratified by about the third of the countries of the world.

At the same time many countries (in particular, the Netherlands, USA and Japan) have refrained from participation in new agreements. Hence, relations between them (as well as between them and other world community) continue to be built based on the agreements concluded before. The Geneva agreement on introduction of the global technical rules for the wheeled vehicles of 1998. This agreement has paved the way for development of the uniform international requirements to the operating performance and equipment of cars (buses, motorcycles, scooters) in the field



of road safety, environment protection, energy saving, theft protection. It established criteria for the formulation of corresponding specifications, the register current and digest of potential global technical rules was introduced, procedure for settlement of international disputes concerning their interpretation or application was settled. Now Ukraine does not appear among the participants of this agreement though, undoubtedly, such step should essentially promote its integration into the global transport system.

In general, there are about a hundred of multilateral agreements, conventions and protocols on the motor transport management and safety in the world. Beside the stated above, worthy of mention is European agreement on international transportation of dangerous cargoes (1957), European agreement on the road surface marking (1957), European agreement on vehicle team operation performing international transportations by road (1970), Convention on international transportation of passengers and cargo (1973), European agreement on the international highways (1975), Agreement on the minimum requirements to issue and force of driver's licences (1975) etc. Analysis of these documents testifies that until the 80th the society was focused on the unification of the road traffic regulations, development of the universal technical regulations (requirements, codes, standards) in the road and transport area, improvement of cars registration, simplification of the paper-laden processes related to the international transportations, development of global transport networks, and not enough attention has been given to the rules and codes for the road traffic provision.

The situation changed about quarter of the century ago when social and economic consequences of the road accidents assumed serious dimension: the number of road accident victims reached millions, accompanying economic losses amounted to hundreds of billions dollars. Realizing all fatality of such tendencies, authoritative international structures of modern times (the United Nations, EU, etc.) launched a campaign to increase the road safety level. So in 1984 the Council of Europe adopted the resolution on development of the project of all-European road safety program, and 1986 was proclaimed a year of road safety.

It should be noted that the first steps in this direction appeared to be inefficient. Unagreed by the contents and not covered by the frameworks of certain strategy, they, a priori, could not solve a huge tangle of concerns accumulated in the road and transport area and especially problems related to the traffic codes and regulations in the course of its provision.

The Maastricht agreement of 1992 gave an essential rise to the solution of this problem. This document not only laid foundation to the European Union and new universal currency – Euro, but also introduced the uniform transport policy on the European stage. The agreement has vested the European Commission with the authority to establish general rules of transnational communication, determine conditions of transport services provision to “non-resident drivers”, take measures on road safety improving, provide uniform codes at traffic provision. Herewith long-term branch programmes have been recognised the optimum form of arrangement of corresponding measures.

As part of forming of international road safety strategy the European Commission accepted a number of the consecutive programmes focused on the road safety improving: road safety action programme for 1993-1997 – “Road safety: action programme” (COM/93/0246); 2) Programme for the road safety improving for 1997-2002 – “Promoting road safety in the EU” (COM/97/0131); 3) Road safety action programme for 2004-2010 – “European Road Safety Action Programme: Halving the number of road accident victims in the European Union by 2010: a shared responsibility” (COM / 2003/311).

As a part of the first programme a wide complex of events for unification of the European transport legislation, simplification of the international transportation mode, road infrastructure improvement, improvement of statistical accounting systems, organisation of scientific provision of road safety was performed. During realization of the programme the system of the compulsory certification requirements to vehicles and their equipment (“Whole Vehicle Type Approval”) was implemented, the uniform database of road accident (“CARE”) was established, 22 research

projects were implemented, a basis for development of the following branch programmes was created. The EU directives are dated at the same period “On uniform procedures for checks on the transport of dangerous goods by road” (October 6th, 1995), “On admissible dimensions and weight of some kinds of road vehicles...” (July 25th, 1996), etc.

When developing the Second programme the European Commission refused traditional practice of differentiation of road safety problems to such which are stipulated by the human factor, technical characteristics of vehicles and road infrastructure condition.

Due to the innovative character the Second programme became an important stage of development of the international sector planning. Unlike the majority of similar documents for the first time it set before performer a particular measurable goal: to provide 40% reduction of the road accident victim number as compared to 1995 when 63 thousand persons died in the EU countries, and 16 thousand in Ukraine.

However, despite the large applied significance of the first two EU road safety programmes, their implementation has not achieved the desired result. During 2002 there were 1400000 car accidents on the European roads in which more than 53 thousand persons died.

Considering these indicators, as well as considering forecasts concerning the further growth of the European car fleet and intensity of the traffic flows, road infrastructure, the EU management has made a decision to develop a new, more improved strategy to increase the traffic safety. This plan was realised in the spring of 2004 when after the extensive preparation work the Third EU road safety programme was issued which declared a vary ambitious goal – to halve the road accident victim number till the end of this decade. The key areas of the activity in this direction are: strengthening of discipline among the road users; introduction of the advanced achievements of scientific and technical progress; improvements of the road infrastructure;

Today when the period of the programme expires, its first results can be summarized. Undoubtedly the main achievement became essential (for 37%) reduction in the fatality rate among road users. Some countries, such



as Portugal or Luxembourg, have even reached the programme goal – the number of victims in the road accidents has decreased twice in their countries (as compared to 2002), what can not be said of Ukraine. We consider that in Ukraine the traffic fatality rate increase is connected with infringement of article 288 of the Criminal code of Ukraine, in particular: violation of traffic rules, codes and standards. Also other indicators of the road safety are getting better. In particular, in the Netherlands and France during 2002-2012 breakdown susceptibility level fell to 35-40%, injury rate level – to 30-35%. The third road safety programme gave an important push to the international cooperation: on January 29th, 2004 the EU Parliament approved the European road safety charter which totals already more than 1,7 thousand members – regions, cities, industrial companies, financial institutions, professional associations, public organisations, research establishments. On the other hand, performers of the Programme have not provided absolute realisation of its target parameters. In a number of the European countries (Denmark, Poland, Slovenia, etc.) the traffic fatality rate decreases very slowly – for 1-1,5% annually; in some countries (Greece, Malta) – remained almost the same; and in other countries – it shows ascending dynamics (Bulgaria +11%, Romania +28%, Ukraine +16%). There are no also profound changes in sphere of prevention of accidents.

Considering the stated above, preliminary results of the Third EU road safety programme have received a restrained estimation. As it is highlighted in the report of the European Transport Safety Council (ETSC): “... despite the high efficiency of the programme measures, their primary target (to halve road deaths by 2010) will unlikely be reached. This circumstance should be necessarily taken into account at the subsequent stages of strategic planning, in particular, when developing the long-term programmes” [3, p. 12].

Guided by these reasons ETSC has developed and submitted to the wide public the EU draft road safety programme for 2010–2020 named “Road Safety as a right and responsibility for all”. The primary goals of the new programme are: reduction of the number of traffic

fatalities by 40%; decrease in the level of traffic injuries by 20%; decrease in the fatality rate among children aged up to 14 years by 60%.

More than 200 legal, organizational, technical, scientific, educational, pedagogic and other measures are offered to realize certain tasks united by four key directions (“strategic management”, “special measures”, “road user categories”, “business and markets”). In terms of the future influence on the domestic transport policy and functioning of the national road safety system, the most interesting among them are:

- creation of the European Road Traffic Safety Agency (thereby ETSC admitted an inefficiency of structures responsible for safety of all types of transport and approved transition to the differentiated control system);
- integration of public road safety associations into the uniform social and information network capable to self-development and self-improvement;
- further expansion of a circle of members of the Road Safety Charter due to representatives of the countries – non-EU members; introduction of new speed limits: on highways – up to 120 km/h, in urban areas – up to 50 km/h, in housing estates – up to 30 km/h; complete termination of production and sales of front baby seats; determination of maximum permissible blood alcohol level of the commercial traffic drivers and beginner drivers at the level of 0,2 ppm; equipping all vehicles with “alcolock” devices (these devices make it impossible to drive in a state of alcoholic intoxication); transition to a uniform emergency call service – “112”, adjustment of the road infrastructure to uniform codes and standards in traffic provision [4].

It is not known whether this project remains unchanged. But experience of development of similar documents shows that more than 95% of the measures covered in the final version of the project are further embodied in the work programme.

Therefore Ukraine even today should prepare for the future changes which it will be concerned sooner or later. Not just concern, but also cause necessity of many transformations in legal, normative and technical, production, communication, trade and economic

and other spheres. Respective changes will be the less problematic, the better the soil for their realisation will manage to be created in the near future. Absence of reliable basis threatens with public non-admission of innovations and considerable material losses which are especially undesired under the conditions of present social and economic instability.

There fore when forming the national road safety policy global directions of counteraction to the traffic injury rate to be considered deeper, such as:

- noninfringement of traffic codes, rules and standards (as per Criminal Code of Ukraine, article 288);
- development of international cooperation in the road safety field;
- enhancement of technical requirements to the safety of wheeled vehicles;
- promotion of municipal transport development;
- decrease in speed limits in the urban areas and outside;
- modernization of the public road system, increase in the road capacity;
- implementation of the international regulations (rules, specifications) as to the motor transport activity;
- improvement of the road accident statistical accounting system;
- centralization of management of the road safety sector;
- intensification of struggle against road traffic offences, first of all, against driving in a state of alcoholic (drug) intoxication, exceeding speed limits, “aggressive driving”;
- identification and liquidation of road accident points;
- realization of a wide complex of educational and publicity events to improve the legal awareness of the road users.

Conclusions. The set out priorities should become a keystone of domestic motor transport development strategy. They should be reflected in the current legislation, branch programmes, departmental regulations. Because of the fact that article 288 of the Criminal Code of Ukraine contains a blanket disposition and to clarify the criminal liability for a crime provided by article 288 of the Criminal Code of Ukraine, studying is important, including international traffic legislation and violation of traffic rules, codes and standards.



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ОТВЕТСТВЕННОСТЬ ЗА НАРУШЕНИЕ ЗАКОНОДАТЕЛЬСТВА ПО ОХРАНЕ И ИСПОЛЬЗОВАНИЮ ОРОШАЕМЫХ И ОСУШАЕМЫХ ЗЕМЕЛЬ

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АННОТАЦИЯ

В статье проводится теоретическое исследование юридической ответственности за нарушение законодательства по охране и использованию орошаемых и осушаемых земель. Анализируются особенности административной, уголовной, дисциплинарной и гражданско-правовой ответственности за нарушение законодательства по охране и использованию орошаемых и осушаемых земель. Выявлены суть, цели, целесообразность, особые черты такого типа законодательства. Обосновано, что основанием для привлечения к ответственности являются противоправное действие или бездействие, нарушающие правовые нормы использования и охраны орошаемых и осушаемых земель.

Ключевые слова: ответственность, орошаемые и осушаемые земли, правовое регулирование, охрана и использование орошаемых и осушаемых земель.

RESPONSIBILITY FOR VIOLATION OF LEGISLATION ON THE PROTECTION AND USE OF IRRIGATED AND CONDENSED LAND

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SUMMARY

The article is devoted to a theoretical study of legal liability for violation of the legislation on the protection and use of irrigated and drained lands. Features of administrative, criminal, disciplinary and civil law, responsibility for violation of legislation on the protection and use of irrigated and drained lands are analyzed. The essence, purpose, expediency, special features of this type of legislation are revealed. It is substantiated that the basis for bringing to responsibility is unlawful action or inaction, which violates the legal norms for the use and protection of irrigated and drained lands.

Key words: responsibility, irrigated and drained lands, legal regulation, protection and use of irrigated and drained lands.

Постановка проблемы. С обретением Украиной независимости и проведения земельной реформы начался процесс становления современного законодательства в сфере охраны и использования орошаемых и осушаемых земель. Как известно, земельная реформа продолжается уже более двух десятилетий и до сих пор не завершена. Основная проблема осуществления земельной реформы – отсутствие надлежащей определённости относительно путей её реализации и конечных результатов. Кроме того, законодательство

содержит немало несогласованностей, пробелов и коллизий, что влечёт за собой отсутствие надлежащего механизма реализации правовых норм в сфере охраны и использования орошаемых и осушаемых земель. Эффективность правового регулирования охраны и использования орошаемых и осушаемых земель приобретает большое агроэкологическое значение с целью дальнейшей перспективной оценки целесообразности орошения и осушения, а также состава гидротехнических мелиоративных мероприятий.