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**ADMINISTRATIVE RESPONSIBILITY FOR OFFENCES IN THE FIELD
OF ROAD TRAFFIC SAFETY UNDER THE CODE ON ADMINISTRATIVE
OFFENCES OF THE REPUBLIC OF KAZAKHSTAN**

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Basing on the review of normative provisions of the Code on Administrative Offences of the Republic of Kazakhstan that establish responsibility for the commission of offenses in the field of road safety and comparing past changes in the legal regulation of this sphere it is argued about occurrence the problems of law enforcement among bodies of administrative jurisdiction.

The author notes the necessity to return in the national legislation to the principle of equitable liability for administrative offenses.

Keywords: administrative responsibility, road traffic safety, administrative responsibility of pedestrians, administrative fine.

Transport, traffic rules and safety on transport is an integral part of human life. Each of us, in view of the need for transportation (on any available form of transport), are involved in maritime, air and road traffic as a driver, passenger, pedestrian. By participating in the movement of vehicles (or as a passenger, pedestrian etc.), we comply with the requirements of established traffic rules. The most important of which are road traffic rules – compliance with traffic lights,

signs of a traffic controller, traffic signs and markings, as well as normative acts governing the interrelations of road users [1, 4].

In order to tighten administrative-legal sanctions for offenses in the field of road safety, and strengthen anti-corruption measures the Law of the Republic of Kazakhstan from 04.07.2008 introduced amendments to the Administrative Violations Code of the Republic of Kazakhstan in: Chapter 27 “Administrative violations in transport, highways and communications”, article 461 (Violation of the rules for the operation of vehicles), 461-1 (The use of telephone or radio station by driver while driving), 462 (Exceeding established speed limit), 463 (Failure to comply with the rules of stopping route vehicles, traffic in residential areas, transportation of passengers and cargo and other serious traffic violations by the drivers of vehicles), 463-1 (Failure to comply with the rules of passage of intersections or crossing a roadway), 463-2 (Failure to comply with the rules of maneuvering), 463-3 (Violating the rules of locating a transport vehicle on the roadside, of passing each other, when driving in opposite directions, or of overtaking), 463-4 (Violating the rules of stopping or parking transport vehicles), and also in article 473 (Violating the Traffic Regulations by a pedestrian or by any other person participating in road traffic), etc. [2]. Under these amendments, sanctions of the specified articles have been converted into strict penalties and greatly increased. As administrative penalties they provide for a main measure – an administrative fine of a strictly defined amount (in the first five parts, mainly – 5 monthly calculation indexes).

Article 473 of the Administrative Violations Code of the Republic of Kazakhstan provides for administrative responsibility of pedestrians (and other road users) for failure to comply with and violation of a number of prohibitions and restrictions enshrined by the Traffic Regulations [11, 212]. Among such offences the most common is the crossing of a roadway by a pedestrian at a wrong place – responsibility under part 1 article 473 (fine in the amount of 5 MCI). It should be noted that prior to the introduction of these amendments penalties for such an offense were imposed in the form of a warning or a fine of one-fifth to one-half of MCI [9].

In the theory of administrative responsibility has long been proven the value and appropriateness of strict and relatively-strict sanctions, basic and additional penalties in the legislation on administrative offenses [8, 203]. The establishment of minimum and maximum limits for measures of administrative responsibility allowed implementing of the main objectives of proceedings on administrative offences, taking into account a number of circumstances to be clarified in considering a case concerning an administrative offense, individualizing of punishment.

A negative situation occurred with the introduction of the considered amendments (Law of the RK No. 55-IV from 04.07.2008). So, according to statistics (prior to amendment of sanctions) under part 1 article 473, only for the first quarter of 2008, the traffic police officers of Karaganda DIA brought to administrative responsibility 240 individuals [6]. When, for the entire 2012 year total number of sanctions estimated 46 (after amendment of sanctions) [7]. The downward trend is visible. However, this result is far from a qualitative increasing of legal consciousness of citizens, tightening of sanctions and, as a consequence, their preventive effect.

According to unofficial survey of representatives of the specified service, the number of offenders has not diminished. Due to the stringency of sanctions, police officers less likely record the facts of violations of rules of crossing roadways by pedestrians. Today, in accordance with article 649 of the Administrative Code, it seems impossible to impose an administrative fine in the light of the circumstances that must be clarified when imposing an administrative penalty (a form of guilt, the nature and consequences of deed, identity and property status of the subject of responsibility, mitigating and aggravating circumstances, etc.). Nowadays, the only sanction is a fine in the amount of 5 MCI [10]. In such a way the state put our traffic police officers before a "great humanistic" choice: to let go a World War veteran "limping across a road for some bread", or to act according to the law and fine him despite his military achievements, in the amount of 5 MCI.

"An important part of administrative law is administrative-tort law, the development prospects of which are associated with the updating of legislation on administrative offenses, the basis of which should be based on recognition of directly applicable, defining the meaning, content and application of laws constitutional norms on the rights and freedoms of man and citizen. Legislation on administrative offences should be maximally oriented on the restoration of violated rights, prevention of legal conflicts in society through administrative and legal measures. At that, there must be full respect for the principle of proportionality to social danger degree and the nature of an offence in the formation of administrative and legal sanctions" [3].

One could only hope that the priorities set by the Concept of legal policy of the Republic of Kazakhstan for the period from 2010 to 2020 will put the principles of fair responsibility for administrative offences back. It should be noted that this problem remains in the draft of the Administrative Violations Code of the Republic of Kazakhstan (new edition) [5].

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