

# Administrative Responsibility for Driving While Intoxicated in the Legislation of the CIS Countries: Comparative Legal Analysis

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**Abstract--***Relevance of the study: the relevance of the problem under study is due to the need to improve the road safety system, lack of elaboration and fragmentation of normative legal acts regulating the procedure and grounds for bringing to justice drivers driving a vehicle while intoxicated. Purpose of the study: the purpose of the article is to study the normative legal acts of the members of the Community of Independent States (CIS), conduct their comparative analysis and develop proposals for improving the mechanism of measures of the institute of state coercion and their testing. Research methods: the leading method of this problem studying is a comparative legal analysis of legislative acts regulating administrative responsibility for violation of traffic rules. Research results: the article presents proposals aimed at improving the national legislation on administrative offences. Practical significance: The results of the study allow us to develop an optimal design of the administrative and legal norm that establishes responsibility for driving while intoxicated, qualifying signs that determine the increased responsibility of drivers*

**Keywords--***driving a vehicle while intoxicated, administrative responsibility, legislation of the CIS countries, improvement of state enforcement measures.*

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## I. INTRODUCTION

Road safety continues to be one of the priorities of the state policy of the Russian Federation, designed to solve the socio-economic and demographic challenges facing society (Mukhametshin et al., 2019). Accidents on road transport cause huge material and moral damage both society as a whole and individual citizens, and road traffic injuries lead to the exclusion of people of working age from the sphere of production (Minakhmetova et al., 2017). Statistic from the State road safety inspectorate shows that the cause of every thirteenth traffic accident continues to be the drivers driving a vehicle while intoxicated. These data are of great concern and require the adoption, first of all, of a set of legal and regulatory measures to prevent them.

The suppression of offenses related to driving while intoxicated and the improvement of legislation in this area continue to be the priorities in the law enforcement activities of each state (Baibarin, Mashkin&Shelengovskiy, 2016; Cherdymova et al., 2018). Regulatory and legal regulation of the mentioned

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issue, which meets the existing realities, serves as one of the most important elements of ensuring the safety of road users, preserving the life and health of people. Due to the fact that the studied problem is acute in many countries, the experience of each of them in the fight against offenses associated with drunk driving is diverse, and its study allows us to develop an optimal mechanism for their suppression and prevention (Kusakin, 2018). We can not disagree with the French lawyer R. David, who rightly pointed out the inadmissibility of restricting legal science to the borders of only one state, since its development without studying and analyzing the ideas of foreign legislation only limits the possibilities of knowledge (Marchenko, 2008). Of course, in modern conditions, the complete development of national legislation is impossible without analyzing and taking into account the positive international legal and foreign experience of other states. The purpose of this work is to study the normative legal acts of the members of the Community of Independent States, that regulate the procedure and grounds for bringing persons to responsibility for driving vehicles while intoxicated, conduct their comparative analysis and develop proposals for improving the mechanism of measures of the institute of state coercion.

## **II. THE ANALYSIS OF LEGISLATIVE APPROACHES**

The administrative legislation of the CIS countries that regulate this issue has many common features, which is explained by the presence of a single legal system in the recent past and often their geographical proximity, as well as significant differences dictated by the independent development of jurisprudence after gaining sovereignty. Starting with the analysis of the objective side of offenses involving driving vehicles while intoxicated, contained in the legislation of the CIS countries, we note the heterogeneity of the dispositions of administrative delicts. The absence of a single denominator in this issue allows us to distinguish three existing approaches to the normative consolidation of types of intoxication:

1. The maximum specification of the types of intoxication and substances which consumption causes this condition of the driver is characteristic for the legislation of the Republic of Belarus, which provides that it is caused by the use of alcohol, narcotic drugs, psychotropic substances, their analogues, toxic or other intoxicating substances.
2. The second group includes Russia, Ukraine, Kazakhstan and Uzbekistan, which have fixed in the legislation as the main types of intoxication alcohol and drug intoxication, which are supplemented by other ones.

Thus, Russian legislation provides for intoxication caused by the action of psychotropic and other substances (Code on Administrative Offenses of the Russian Federation, 2001), the Code of administrative offences (CAO) of the Republic of Kazakhstan on administrative offenses - substance abuse (Code of on Administrative Offenses the Republic of Kazakhstan, 2014), CAO of the Republic of Ukraine-intoxication caused by exposure to drugs that reduce attention and reaction speed (Code on Administrative Offenses of the Ukraine, 1984) and the CAO of the Republic of Uzbekistan on administrative responsibility secures the presence of "other intoxication" (Code on Administrative Offenses of the Republic of Uzbekistan, 1994).

3. The third group of countries includes Tajikistan and Turkmenistan, whose administrative legislation does not

explicitly provide for separate types of intoxication in the disposition of offenses (Code on Administrative Offenses of the Republic of Tajikistan, 2008; Code on Administrative Offenses of the Republic of Turkmenistan, 2013).

An analysis of the sanctions, enshrined in the administrative legislation of the CIS countries, for committing misconduct related to driving while intoxicated, indicates the heterogeneity of sentences and their size. In most countries, individuals who commit this violation for the first time are subject to a monetary fine and driving license cancellation as a comprehensive measure aimed at collecting money in state revenue at the same time as banning the driving of vehicles. These countries include Russia (Code on Administrative Offenses of the Russian Federation, 2001: Part 1 of Article 12.8 of the CAO of the Russian Federation), Belarus (Code on Administrative Offenses of the Republic of Belarus, 2020: Part 1 of Article 18.16 of the CAO of the Republic of Belarus), Ukraine (Code on Administrative Offenses of the Ukraine, 1984: Part 1 of Article 130 of the CAO of the Republic of Ukraine), Uzbekistan (Code on Administrative Offenses of the Republic of Uzbekistan, 1994: Part 1 of Article 131 of the CAO of the Republic of Uzbekistan). In a number of countries, such as Kazakhstan (Code of on Administrative Offenses the Republic of Kazakhstan, 2014: part 1 of article 608 of the CAO of the Republic of Kazakhstan) and Turkmenistan (Code on Administrative Offenses of the Republic of Turkmenistan, 2013: part 1 of article 222 of the CAO of the Republic of Turkmenistan), only deprivation of a special right is provided for as a punishment. Tajikistan should be singled out in the mentioned group of countries (Code on Administrative Offenses of the Republic of Tajikistan, 2008: part 1 of article 332 of the CAO of the Republic of Tajikistan), whose legislation provides for the possibility of applying an alternative sanction, which provides for the imposition of a monetary fine or administrative arrest for a period of 15 days with the simultaneous deprivation of a driving license. There is an interesting approach of the legislators of the Republic of Armenia. They have provided for an alternative penalty in the form of a fine for committing an offense related to driving a vehicle while intoxicated. Its size is determined by the quantitative alcohol content in the driver's body. Deprivation of a special right, as a type of punishment, is provided only for the commission of the considered category of torts involving the presence of a person in a state of narcotic or psychotropic intoxication and is limited by a period of one year (Code on Administrative Offenses of the Republic of Armenia, 2012).

It should be noted that the term of deprivation of a driving license, as a punishment that restricts the offender's ability to manage a source of increased danger, varies quite widely in the CIS countries. So, the specified sanction in the republics of Ukraine and Turkmenistan does not exceed 1 year, in the republics of Belarus and Kazakhstan is non-alternative and is 3 years. The most severe punishment for a first-time offense involving driving a vehicle while intoxicated is provided for in the Republic of Tajikistan and is 5 years of deprivation of a driving license.

An interesting question is the differences in the design of administrative and legal norms that provide for responsibility for driving a vehicle while intoxicated, and the allocation of qualified and highly qualified delicts.

Thus, the administrative legislation of the Republic of Kazakhstan defines responsibility for driving a vehicle while intoxicated, which caused an emergency situation, as well as causing harm to the health or property of road users, providing for non-alternative penalties – deprivation of a driving license for a period of four years and five years, respectively (Code of on Administrative Offenses the Republic of Kazakhstan, 2014). The same article establishes increased responsibility for committing these acts repeatedly within a year after the expiration of the administrative penalty, providing for the imposition of a penalty that involves administrative arrest for a period of up to 30 days and deprivation of a driving license for a period of up to 10 years (Code of on Administrative Offenses the Republic of Kazakhstan, 2014).

A similar approach demonstrate the legislators of Ukraine who set that the repeated driving while intoxicated in qualified tort, and actions committed by a person who twice during the year was subjected to administrative penalty for committing the said offences, especially qualified tort, providing for penalties involving deprivation of a driving license for a period of three and ten years respectively (Code on Administrative Offenses of the Ukraine, 1984).

The most loyal to violators who repeatedly allowed "drunk driving" are the national legislations of Armenia, which establishes a penalty of one year of deprivation of a driving license (Code on Administrative Offenses of the Republic of Armenia, 2012), and Turkmenistan, which provides for the possibility of administrative arrest for up to 15 days and (or) restriction of the right to drive vehicles for up to two years (Code on Administrative Offenses of the Republic of Turkmenistan, 2013).

On the issue of criminal liability for repeated offenses related to driving while intoxicated, the legislation of the CIS countries also does not have a common position. Legislation of the first group of countries: Russia (article 264.1 of the criminal code), Belarus (article 317.1 of the criminal code of Belarus), Tajikistan (article 212.3 of the criminal code) provides for the use of administrative prejudice, as the reason for involvement of the driver to criminal liability for repeated driving while intoxicated. The legislation of the republics of Kazakhstan, Turkmenistan, Armenia and Ukraine allocates repeated driving of a vehicle while intoxicated in a separate qualified structure within the framework of the administrative code. The third group should include the Republic of Uzbekistan, where the concept of repetition of this type of offense is absent.

We must admit that the development of national legislation in most CIS countries demonstrates a common vector of legal development. It is based on the recognition of an increasing degree of public danger of offenses and crimes committed by persons driving vehicles while intoxicated (Nozdrachev et al., 2016).

### **III. RESULTS AND DISCUSSIONS**

The analysis of the given legislative approaches in counteraction to the offenses connected with driving of vehicles while intoxicated allows to allocate General features in national legal systems of the CIS countries:

1. In all states, for the first time, a misconduct related to the driver being under the influence of substances causing intoxication is recognized as an administrative offense.
2. In most cases, the codes of administrative offences of each country provide for the appointment of similar

penalties: a monetary fine and (or) deprivation of the right to drive vehicles for a certain period.

3. However, the administrative legislation of the CIS countries has significant differences:
4. Each of the national laws in its own way fixes the types of intoxication and the list of substances that cause this condition as a qualifying sign of the objective side of the offense.
5. The terms of deprivation of the special right to drive vehicles imposed as a punishment for a first-time offense can vary significantly and vary from one year to five years.
6. There is no uniform approach to the issue of tort acts connected to driving while intoxicated committed repeatedly. The legislation of the first group of countries (Russia, Belarus, Tajikistan) uses administrative prejudice as the basis for criminal prosecution of perpetrators. At the same time, Kazakhstan, Turkmenistan, Armenia and Ukraine proceed from the recognition of repeated acts as administrative misconduct.

Summarizing the administrative legislation of the CIS countries in the matter of legal regulation of liability for driving while intoxicated, we dwell on the points that, in our opinion, can help to improve the national regulatory legal system.

Firstly, we believe that the most successful construction of the disposition of the norm has been proposed by the Administrative Code of Belarus (Code on Administrative Offenses of the Republic of Belarus, 2020), which regulates as much as possible the types of substances which consumption causes intoxication and entails a ban on driving.

Secondly, it is reasonable to include qualified elements of offenses contained in the administrative Code of Kazakhstan, which provide for increased responsibility of the driver of the vehicle that created an emergency situation or caused damage to the health or property of road users by their actions.

Thirdly, we consider the possibility of differentiating the punishment imposed on the driver of a vehicle based on the quantitative indicator of the content of ethyl alcohol in his body according to the experience of the Administrative Code of Armenia.

#### **IV. CONCLUSION**

In conclusion, we note that Russian administrative legislation at the present stage generally meets international trends in the field of road safety, which have developed, including in the CIS countries. At the same time, the observed vector of increasing penalties for driving under the influence of alcohol, primarily expressed in the conduct of criminal liability of drivers, is not always a universal tool that guarantees effective counteraction to the threat to public safety in question. In this regard, we agree with the opinion of the authors, who believe that in order to improve the legislative regulation, a deep study of the issue and the study of foreign approaches in this area are necessary. Based on this, the implementation, and in some cases, the reception of positively proven legal instruments should be carried out taking into account the specifics of the legal system of the Russian Federation (Nozdrachev et al., 2016).

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