

Kudryavich, S. B. (2025). The main problems of establishing and applying administrative responsibility for traffic violations. *Current Issues of Science: Student Thought. Tuculart Student Scientific*, 5, 20–29. Ostrava: Tuculart Edition, European Institute for Innovation Development.

TOI: tss2025-01-02 DOI: 10.61726/1880.2025.88.44.001

The paper will be published in Crossref, ICI Copernicus, BASE, Zenodo, OpenAIRE, LORY, Academic Resource Index ResearchBib, J-Gate, International Scientific Indexing (ISI), eLibrary, Google Scholar, and WebArchive databases.



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The Main Problems of Establishing and Applying Administrative Responsibility for Traffic Violations

Abstract: According to the traffic police, 133.3 thousand road accidents occurred in the Russian Federation in 2021 alone. As a result, 14,874 people died, and another 167,856 were injured. At the same time, in recent years, we have seen a steady decline in all three indicators: for example, in 2020, more than 16 thousand people lost their lives on the roads. Thus, every year the population of a small city dies on streets, avenues, alleys, highways, highways, overpasses, driveways, and overpasses. The study's relevance lies in the fact that solving the problem of high traffic accidents is an absolutely real, as well as an essential and urgent task for the state. It requires an integrated, multi-vector approach that includes information, technical, regulatory, organisational, managerial and other methods. The study object is the administrative legal relations arising in traffic. The study subject is the regulatory problems of traffic regulation. The study aims to identify similar main issues, analyse their significance, and recommend corrections. The theoretical basis was formed by the normative legal acts of the Russian Federation regulating administrative legal relations in traffic. The author identifies the main directions of government actions in the field of rulemaking in the context of the Traffic Rules and the Code of Administrative Offenses.

Keywords: traffic regulations, traffic accidents, Russian Federation, regulatory legal acts.

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Основные проблемы установления и применения административной ответственности за нарушение правил дорожного движения

Аннотация: Согласно данным ГИБДД, только за 2021 год в Российской Федерации произошло 133,3 тыс. дорожно-транспортных происшествий. В результате 14874 человека погибло, ещё 167856 были ранены. При этом в последние годы у нас наблюдается устойчивое снижение всех трёх показателей: например, в 2020 году на дорогах со своими жизнями рассталось более 16 тыс.

человек. Таким образом, ежегодно на улицах, проспектах, переулках, шоссе, автомагистралях, путепроводах, проездах, эстакадах гибнет население небольшого города. Актуальность исследования заключается в том, что решение проблемы высокой аварийности на дорогах – абсолютно реальная, а также важная и срочная задача для государства. Здесь требуется комплексный, многовекторный подход, включающий в себя информационные, технические, нормативные, организационно-управленческие и иные методы. Объектом исследования являются административные правоотношения, возникающие в сфере дорожного движения. Предметом исследования являются нормативные проблемы регулирования дорожного движения. Цель исследования заключается в том, чтобы выделить основные подобные проблемы, проанализировать их значение и сформировать рекомендации по их исправлению. Теоретическую основу составили нормативно-правовые акты Российской Федерации, регулирующие административные правоотношения в сфере дорожного движения. Автор выделяет основные направления действий государственной власти в сфере нормотворчества в контексте Правил дорожного движения и Кодекса об административных правонарушениях.

Ключевые слова: правила дорожного движения, дорожно-транспортные происшествия, Российская Федерация, нормативно-правовые акты.

Abbreviations:

SRSI is State Road Safety Inspectorate,

TA is a traffic accident,

TR is traffic regulation.

Introduction

According to the SRSI, 133.3 thousand road accidents occurred in the Russian Federation in 2021 alone (*Road safety indicators, 2007*). As a result, 14,874 people died, and another 167,856 were injured. At the same time, in recent years, we have seen a steady decline in all three indicators: for example, in 2020, more than 16 thousand people lost their lives on the roads. Thus, every year on the streets, avenues, alleys, highways, overpasses, driveways, and other surfaces, the population of a small town, Shlisselburg. One and a half Suzdal, two Lahdenpohja, four and a half Gdov or ten Kurilsk—fewer people live in more than 300 Russian cities out of 1,117 (*The permanent population..., 2021*) than die in a TA in just 12 months.

At the same time, each of the victims, had it not been for this tragic accident, could have spent many more years developing their resources to benefit the economy and other spheres of public life. Traffic is a permanent, quiet, unnoticeable war that takes away a unit of human capital from the country every half hour.

However, this problem is not insurmountable. For example, you can take a country with similar weather conditions, low population density, and not very remote geographical location—Sweden. In 2021, 192 people died in TAs in the country of 10 million, or 1.85 per 100,000 inhabitants (*Transportstyrelsen, 2015*). In Russia, this figure is almost six times higher—10.22 per 100,000.

Thus, the study's relevance lies in the fact that solving the problem of high traffic accidents is an absolutely real and urgent task for the state. It requires an integrated, multi-vector approach that includes information, technical, regulatory, organisational, managerial, and other methods.

The study object is the administrative legal relations arising in traffic.

The study subject is the regulatory problems of TRs.

The purpose is to identify similar main problems, analyse their significance, and form recommendations for their correction.

Based on the purpose, it is appropriate to highlight the following objectives of the coursework:

- consider the main directions of modernisation of the TRs over the past 3 years, i.e., for the period 2019-2021,
- highlight the main provisions of the current Road Safety Strategy in the Russian Federation for 2018-2024 related to the regulation of this area,
- formulate the main regulatory problems of TRs and classify them,
- consider the essence, meaning and context of each of the formulated problems,
- create recommendations to fix these issues.

The theoretical basis of the course was the normative legal acts of the Russian Federation regulating administrative legal relations in traffic, namely the traffic regulations (TRs), the Code of Administrative Offenses, several federal laws, resolutions of the Government of the Russian Federation, and decisions of the courts of the Russian Federation. In addition, statistical data on traffic in the Russian Federation and foreign countries were reviewed.

Results

The Regulatory Framework for Modernising Administrative Legislation in Traffic

1. Overview of the Main Changes in the Traffic Regulations for 2019-2021

Over the past three years, namely for 2019-2021, several changes have been made to the TR, concluded in six normative legal acts (*Traffic Regulations..., 1993*):

1. On Amendments to the Traffic Regulations of the Russian Federation, Decree of the Government of the Russian Federation No. 1733 dated December 20, 2019.
2. On Amendments to Certain Acts of the Government of the Russian Federation on the admission of citizens to driving vehicles, Decree of the Government of the Russian Federation No. 1734 dated December 20, 2019.
3. On Amendments to the Traffic Regulations of the Russian Federation, Decree of the Government of the Russian Federation No. 1747 dated December 21, 2019.
4. On Amendments to Certain Acts of the Government of the Russian Federation on Issues Related to the Movement of heavy and (or) Bulky vehicles, as well as vehicles carrying dangerous Goods, Decree of the Government of the Russian Federation No. 341 dated March 26, 2020.
5. On Approval of the Rules for the Carriage of Goods by Road and Amendments to paragraph 2.1.1 of the Rules of the Road of the Russian Federation, Decree of the Government of the Russian Federation No. 2200 dated December 21, 2020.
6. On Amendments to Appendix 1 to the Traffic Regulations of the Russian Federation and Invalidation of Certain Provisions of Certain Acts of the Government of the Russian

Federation, Decree of the Government of the Russian Federation No. 2441 dated December 31, 2020.

The most significant and general provisions of these resolutions are as follows:

1. The norms of driving and rest time have been established (sec. 26 TA).
2. The rules of training driving have been specified and clarified (paragraphs 21.1–21.4 of the TA).
3. The list of documents that the driver of a mechanical vehicle must have with him and, at the request of police officers, hand over to them for verification (paragraph 2.1.1 of the TA).
4. The sign 6.22 “Photo-Video Recording” has been added.

As you can see, all these changes, except for those indicated under paragraph 1, are cosmetic and very local in nature. Only the establishment of norms for driving and rest time is designed to solve a qualitatively enormous task—to monitor the physical condition of the driver while driving and, through regulatory regulation, prevent him from falling into a critical state of fatigue, inattention, etc., which can become a factor in a potentially dangerous situation on the road and, as a result, lead to a traffic accident.

Thus, we conclude that in recent years, the state authorities of the Russian Federation have not paid sufficient attention to modernising the regulation of road traffic in its most general, fundamental aspects, limiting themselves to partial corrections of individual provisions.

2. Road Safety Strategy in the Russian Federation for 2018-2024

Nevertheless, there is a regulatory framework for such modernisation. Thus, on January 8, 2018, Decree of the Government of the Russian Federation No. 1-r approved the Road Safety Strategy in the Russian Federation for 2018-2024, which calls improving road safety “one of the priorities of state policy and an important factor in ensuring sustainable socio-economic and demographic development of the country.”

The ultimate goal of this Strategy is “striving for zero deaths in road accidents by 2030,” and “a social risk indicator of no more than 4 deaths per 100,000 population is set as a target for 2024.” At the same time, one task is defined as “the development of legislation to bring norms and rules into line with real processes in road traffic, including ensuring the proportionality of punishment to the severity of the offense committed.”

Thus, the indicators and the ways to achieve them are defined. According to the Strategy, the planned measures, including those of a regulatory nature, should be implemented in 2021-2024. After a third of this period, there are no results.

The Main Regulatory Problems of Traffic Regulation

1. Classification of the Main Regulatory Problems of Traffic Regulation

When considering the Traffic Rules and the related Chapter 12 of the Code of Administrative Offences, several regulatory issues can be identified. To organise them, creating a general classification of the main legislative misunderstandings seems necessary. It contains only those problems that will be directly addressed in this paper—the structure is universal and does not exclude the possibility of being filled in with new items (*Table 1*).

As an explanation to the presented table, it can be noted that objective problems are those that can be directly solved by organisational and managerial methods (in this case, by revising regulatory legal acts), subjective problems are those related to public opinion, therefore their solution will require the involvement of a broad information and technical base and ample labour resources. Moreover, time resources, while being indirect; related to hypothesis and disposition are those that can be found directly in the TRs, related to sanctions are those found in the Code of Administrative Offenses and some related acts regulating issues of administrative responsibility; under general—those that are characteristic of the regulatory system itself, under particular—those that that its individual elements are striking. Subjective problems are not divided into general and particular ones, since, on the one hand, they are characteristic of society as a whole. On the other hand, each individual road user has a different set of worldviews.

Due to the topic's wording, this paper will cover only objective problems in detail since subjective problems have a rather indirect relationship to the normative side of the issue and relate to building a system of public PR and information policy.

Now it is necessary to consider each of the stated objective problems separately.

2. The Main Regulatory Problems of Traffic Regulation

Frequent Change of Legal Norms

The rules of the road, which in their spirit should give pedestrians and drivers confidence on the roads, are unlikely to be able to do this due to their incredible variability, e.g., in 2020 alone, three modifying regulatory legal acts were issued. In just the last five years (2017-2022), 17 of them have accumulated (*Traffic Regulations..., 1993*). At the same time, it should be noted that new editions may come into force with a wide range of deadlines: for example, specific paragraphs of the Decree of the Government of the Russian Federation No. 832 dated December 7, 2017, “On Amendments to the Decree of the Council of Ministers—Government of the Russian Federation No. 1090 dated October 23, 1993” entered into force, according to paragraph 2, only after almost four months in a year—July 1, 2021.

Speaking of the Administrative Code (even if we are only interested in one chapter), we can see even more significant figures: nine changes in less than four months of 2022, and 231 in the last 5 years (*The Code of Administrative Offenses..., 2001*).

It is perhaps difficult for a professional lawyer to keep track of such a large number of revisions. What can we say about ordinary citizens who easily get lost in a pile of laws and regulations?

Incompleteness of the Conceptual Framework

It is no secret that the TR uses many terms, the meaning of which can be interpreted in different ways. To prevent such liberties, paragraph 1.2 of the TR lists these terms and defines them. However, the completeness of this list raises significant questions.

For example, signs 5.21 and 5.22, “Residential Area” and “End of Residential Area.” However, there is no “residential area” in clause 1.2. Unexpectedly, we find it in clause 17.1: “In a residential area, that is, in a territory whose entrances and exits are marked with signs 5.21 and 5.22...” It turns out that the definition closes in on itself, and de jure, we can organise a residential area even on a busy highway.

Another example: from paragraph 1.2, the rather important and frequent concept of “dark time of day.” The TR define it as “the time interval from the end of evening twilight to the beginning of morning twilight.” However, we will not find the terms “evening twilight” and “morning twilight” in the traffic regulations. In the explanatory dictionaries, we will get only a rather vague wording, “semi-darkness between sunset and nightfall, as well as (outdated) morning predawn semi-darkness” (*Ozhegov & Shvedova, 1997*), which does not fit into a clear definition of the construction of regulations.

Thus, the lack of elaboration of the conceptual framework can negatively affect law enforcement and cause legal conflicts, which in turn can lead to a TA.

Overload of the Conceptual Apparatus

It seems that the problem’s very name contradicts the previous paragraph. However, it is not that simple. The other side of the coin is the lack of elaboration of TR’s terminology base.

It is necessary to return to one of the previous examples—the “Residential Area.” Paragraphs 17.1-17.3 describe how to move correctly in this mysterious area. However, paragraph 17.4 gives a very unexpected definition: “The requirements of this section also apply to courtyard areas.” That is, a residential area and a courtyard area are de jure the same thing, while there are two concepts for some reason.

The definitions themselves leave much to be desired: their conciseness cannot be overestimated. It is necessary to say the term “parking” is explained in 80 words, and the term “motorcycle”—82.

These legal pleonasm make it very difficult to understand the TRs, reducing citizens’ legal culture and increasing the likelihood of road accidents.

Irrational speed limit

After a brief overview of the TRs, let us focus on this document’s particular problems. To avoid overloading the work with information, we must look at one example—perhaps the most striking and revealing.

In the Russian Federation, as a general rule, the maximum speed limit in populated areas is 60 km/h, outside populated areas (for cars and trucks with a maximum permissible weight of not more than 3.5 tons)—110 km/h on motorways and 90 km/h on other roads (de facto due to the non-fined threshold each of these figures increases by another 20 km/h, but this issue will be covered later).

However, numerous studies and international practice have shown that driving at more than 15 meters per second in urban conditions is unacceptable (*Speed limit..., 2021*). So, the stopping distance (time to assess the situation plus the braking distance) of a passenger car in this situation will be about 34 meters (*Typical stopping distances, 2017*)—the exact values depend on the type and condition of the road surface, the technical characteristics of the car, the characteristics of the driver, and so on. Moreover, the speed of a car at the time of a possible collision with a pedestrian has a decisive impact on human survival, because, as we remember from the school physics course, there is a quadratic relationship between speed and kinetic energy. The example of France can serve as a practical confirmation of this fact: in 2018, the maximum speed allowed on

secondary country roads there was reduced from 90 km/h to 80 km/h, which allowed 349 lives to be saved in 20 months (*Bilan final... , 2020*).

Regulatory Procedure for Registration of Offenses

Establishing a legal norm and a certain measure of responsibility for its violation is only half the battle. It is also necessary to monitor compliance with the rules to use the available methods of coercion most effectively, reduce the frequency of offenses, and, as a result, the number of potentially dangerous situations in traffic.

This control can be provided in two groups: human (e.g., a traffic police inspector can record the intersection of a double solid) and technical (mainly with the help of special traffic cameras).

With the latter, we usually have several regulatory problems. The clearest example: fixing the average speed. Since 2013, there has been such a practice on many Russian highways: at the beginning and the end of a particular section of the highway, cameras are installed that record the time of entry and exit from this section, and after that, by simple calculations, determine the average speed of a given car (*Popova, 2023*). Suppose it turns out to be higher than the maximum permissible. In that case, the driver is fined according to the logic of regular speeding: for example, if the average speed was 115 km/h at the limit of 90 km/h, 500 rubles will have to be given to the treasury, according to Part 2 of Article 12.9 of the Administrative Code.

On the one hand, everything is perfectly fair. On the other hand, there is no concept of “average speed” in the traffic regulations (we return to the problem of incompleteness of the conceptual apparatus), and the specified offense does not have a precise time and place of commission (mandatory characteristic according to par. 26 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 20 dated June 25, 2019, “On certain issues arising in judicial practice when considering cases of administrative offenses provided for in Chapter 12 of the Code of Administrative Offenses of the Russian Federation”), therefore lawyers, human rights defenders and drivers had legitimate doubts about the legality of this practice, which resulted in its suspension in 2021 this year (*Popova, 2023*), although judicial precedents determining its illegality appeared in 2019 (*Resolution of the Supreme Court... , 2019*).

Thus, the introduction of useful technical innovations related to controlling the implementation of legal norms is faced with the imperfection of these very norms. A few edits to the TRs and the Administrative Code, and the number of deaths and injuries in road accidents due to just one initiative may fall by two times (*Popova, 2023*).

Fixed Amount of Administrative Fines

The Code of Administrative Offences establishes administrative fines, among other measures of administrative responsibility for traffic violations. This is a fixed amount or a fixed range of amounts in all cases. With rare exceptions (e.g., Art. 12.28), there is no differentiation even across the subjects of the Russian Federation.

Meanwhile, the economic stratification of citizens in our country cannot be called zero – it turns out that people with different income levels will feel the degree of punishment differently. This leads to the fact that the powerful of this world can ignore all safety rules with minimal damage to themselves and endanger the lives of other road users, e.g., in 2018, there was a

sensational story with Leonid Slutsky, a deputy of the State Duma of the Russian Federation, who was found to have committed 835 traffic violations in just 9 months with a total amount of fines in 1,405,500 rubles (March 8, 2018).

In this sense, the example of Finland is indicative, where there is a system of relative fines, that is, their amount depends on the offender's daily income, as well as on some other factors. In this regard, e.g., speeding on the part of a non-poor driver can seriously impact the budget. So, on May 3, 2019, Finnish hockey player Rasmus Ristolainen accelerated to 81 km/h in a 40 km/h zone, for which he was sentenced to pay 40-day fines (i.e., half-day salaries), which amounted to 120,680 euros—more than 10 million rubles (*Naakka, 2019*). Needless to say, in this country, the death rate as a result of TAs is 2.5 times lower than in Russia—four people per 100,000 population (*Läikenneturva, n.d.*).

Relative fines can help equalise conditions for road users and thus make the degree of administrative responsibility for certain categories of citizens more significant. They will act as a measure to prevent traffic violations on their part, which means they will reduce the number of potentially dangerous situations on the roads.

An Irrelevant Measure of Responsibility for Certain Types of Offenses

Finally, it is logical to highlight some of the most striking particular issues related to the amount of punishment for certain offenses.

For example, speeding, the danger of which has already been mentioned in this paper. Article 12.9 of the Administrative Code not only sets a non-penalised threshold of 20 km/h, but also suggests fining 500 rubles for exceeding 20–40 km/h, 1000–1500 rubles for 40–60 km/h, 2000–2500 rubles for 60–80 km/h, and 5000 rubles for more than 80 km/h. Moreover, in all these cases, if the violator pays this fine within 20 days, he must fork out only half of the specified amounts (according to Part 1.3 of Article 32.2 of the Administrative Code). This means, for example, that a negligent driver can drive under 100 km/h on city streets for only 250 rubles.

Unbuckled seat belt—1000 rubles (Art. 12.6 of the Administrative Code), red light—1000 rubles (Art. 12.12 of the Administrative Code)... There are many such examples. The most dangerous violations, which can lead to situations dangerous to the life and health of citizens, are like a cheap lunch.

The main problem is that these fines were established quite a long time ago: mainly in 2012–2013, and since then, they have not been indexed, despite inflation and other factors (*On Amendments to Certain Legislative Acts..., 2011; On Amendments to the Code..., 2013*).

At the same time, even top government officials (e.g., Prime Minister Mikhail Mishustin) believe that in order to increase fines, “we have not yet achieved such an increase in salaries” (*Mishustin..., 2020*). In other words, administrative punishment is perceived not as a measure to prevent offenses, but as a price drivers can pay for their illegal actions.

To make it more relevant, a qualitatively different approach to determining the size of responsibility is required. Which one? We return to the previous point.

Conclusion

Based on the seven problems considered, we will try to identify the main directions of government action in the field of rulemaking in the context of Traffic Regulations and the Code of Administrative Offenses:

1. Revision and codification of normative legal acts, conducting their legal examination to identify incorrect provisions, shortcomings, pleonasm, etc., and creating the most universal and stable legal system.
2. Moving away from the concept of “lawmaking for the sake of lawmaking,” making changes to regulatory legal acts only when there is a real need, as well as making such changes complex: considering them in the context of existing norms and organically integrating them into the system so that the edited provisions do not become alien elements.
3. Revision of the system of administrative responsibility for traffic violations; moving away from fixed penalties, moving away from understanding fines as payment for violations in favor of their essence as a measure to prevent offenses.
4. Assessing foreign experience in traffic and adapting the best regulatory practices to Russian realities.
5. Involving experts from related fields of knowledge, representatives of social movements, specialised commercial and non-profit organisations, and citizens’ initiative groups in discussing traffic-related issues.
6. Moving away from a car-centric traffic system, prioritising pedestrians, cyclists, and public transport through, among other things, updating traffic and administrative regulations.
7. Official implementation of the principles of the Vision Zero strategy in the regulatory framework of road traffic.

Based on the above, we can again note the fundamental importance of qualitative changes in the regulatory framework of traffic. People’s need for geographical mobility should not become a source of constant danger and one of the most significant anthropogenic factors of death among citizens.

The coursework highlights the main problems and pain points that public authorities should address, suggests ways to solve them, and discusses prospects for the development of legal support for road traffic. It considers both national and foreign experience and illustrates the most typical situations. The gravity of the shortcomings is proven, and the need for their correction is justified. The insufficiency of organisational and managerial measures currently applied in this area is noted.

This work can be a fundamental analysis of the main normative problems and become the basis for a deeper substantive consideration of each manifestation.

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Appendix

Table 1. Classification of the main regulatory issues of traffic regulations and Article 12 of the Administrative Code

The main regulatory problems of traffic regulations and Article 12 of the Administrative Code			
Objective			Subjective
Related to hypothesis and disposition		Related to the sanction	
General	frequent change of legal norms; incompleteness of the conceptual framework; the overload of the conceptual apparatus, etc.	frequent change of legal norms; regulatory procedure for registration of offenses; fixed amount of administrative fines, etc.	
Specific	irrational speed limit, etc.	an irrelevant measure of responsibility for certain types of offenses (seat belts, speeding, driving at a forbidding signal, etc.), etc.	