# Fixation of administrative offenses in Russia and foreign countries: the legal and social aspects

Fijación de infracciones administrativas en Rusia y países extranjeros: aspectos legales y sociales

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**ABSTRACT**

We analyze the experience in fixing administrative offenses. The article also raises the problems of using automatic fixation as a source of evidence in cases of administrative offenses. We gave an examples of the positive impact of automatic fixation of administrative offenses on road safety, in particular we proved that the use of administrative fixation tools should also be the preventive measure that helps to regulate traffic. The problem of using the means of fixing administrative offenses on cars with foreign state marks, which are increasingly appearing on roads, is becoming more relevant. We also considered the sociological aspect in order to understand how the society relates to this activity and correct its direction.

**Keywords:** Means of fixing administrative offenses, traffic rules, experience of use in foreign countries.

**RESUMEN**

Analizamos la experiencia en la reparación de infracciones administrativas. El artículo también plantea los problemas de utilizar la fijación automática como fuente de evidencia en casos de infracciones administrativas. Dimos ejemplos del impacto positivo de la reparación automática de infracciones administrativas en la seguridad vial, en particular demostramos que el uso de herramientas de reparación administrativa también debería ser la medida preventiva que ayude a regular el tráfico. El problema de utilizar los medios para reparar infracciones administrativas en automóviles con marcas de estado extranjeras, que aparecen cada vez más en las carreteras, se está volviendo cada vez más relevante. También consideramos el aspecto sociológico para comprender cómo la sociedad se relaciona con esta actividad y corregir su dirección.

**Palabras clave:** Medios para corregir infracciones administrativas, normas de tránsito, experiencia de uso en países extranjeros.

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## INTRODUCTION

The system of automatic video recording of offenses in the field of road transport regulation takes its history in the West. Interesting is the fact that the first surveillance cameras were invented in the 1950s in Holland.

In Russia, the use of video recording cameras is associated with the Federal Target Program "Improving Road Safety in 2006-2012". And already by July 1, 2008, complexes of photo and video recording of administrative offenses in the field of traffic were put into effect on the territory of our country (Agapov, 2015).

Thus, the Federal Law of July 24, 2007 No. 210-FL introduced changes to the basis and procedure for bringing offenders in the field of traffic rules to administrative responsibility if they are fixed by automatically operating special technical means having photo and video fixation functions. In particular:

- The basis for initiating a case of an administrative offense may be the fixing of an administrative offense in the field of traffic committed with the use of a vehicle, working automatically in special technical means having the functions of photo and video recording;
- A protocol on an administrative offense is not drawn up, and a decision on an administrative offense is made without the participation of the person in respect of whom an administrative offense has been instituted (part 3 of article 28.6 of the Code of Administrative Offenses of the RF);
- The subject of such an offense is the owner (owner) of the vehicle, which can be both an individual and a legal entity, which is enshrined in part 1 of article 2.6.1 Administrative Code of the Russian Federation.

## DEVELOPMENT

### Methodology

Theoretical and methodological basis of the research includes the leading domestic and foreign papers in the field of administrative offenses, including monographs, articles, and analytical reviews.The research is based on common methods, like methods expert analysis, statistical analysis and comparative analysis, a system approach, synthesis, expert assessments, tabular and graphical data visualization techniques.

### Discussion

Since 2007, there has been a steady tendency in Russia to reduce the number of accidents with injuries. In 2000, there were 157.6 thousand such accidents, but then, due to the rapid growth in car use, their number in 2005 exceeded 220 thousand

According to the data of the State traffic inspectorate of the Russian Federation, in 2015 in Russia there were 184 thousand traffic accidents with victims, which killed 23 114 people, 231 197 people were injured and injured. For comparison, in 2005 the number of accidents amounted to 223,342 (a decrease of 17.6%), 33,957 people died (-31.9%), 274,865 people (-15.9%) were injured (Figure 1).

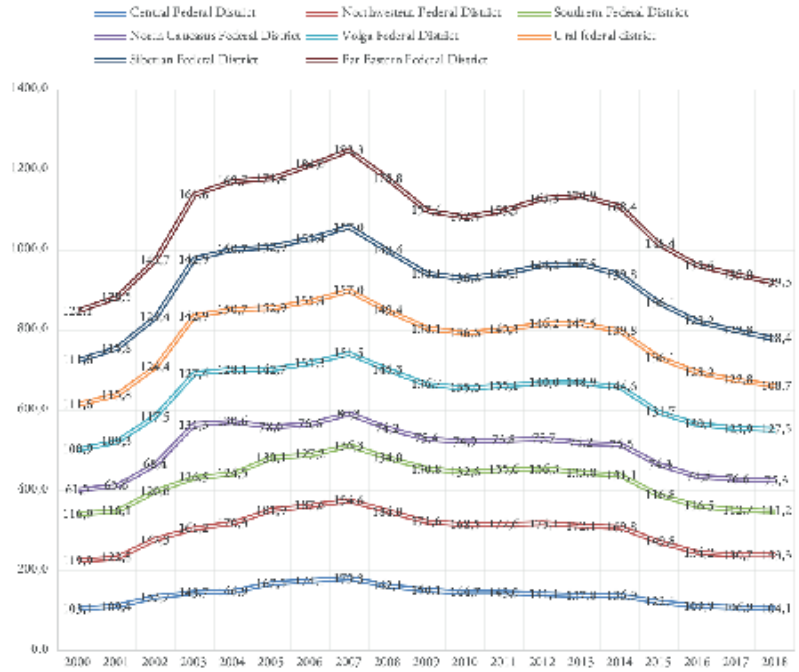


*Fig. 1. The number of road traffic accidents with victims in the constituent entities of the Russian Federation, units per 100 thousand population*

As of the beginning of 2019, in the constituent entities of the Russian Federation, there are 10.8 thousand stationary and 3.9 thousand mobile complexes for automatically recording violations of the rules. Over the past year, the number of stationary complexes increased by 20 percent, mobile - by 1 percent.

Almost 106 million decisions on violations of the rules were made in relation to vehicle owners precisely on the basis of materials obtained using automatic photo and video recording systems. This is 82.7 percent of the total number of decisions issued over the past year.

Now more than 11.2 thousand of all available systems in operation reveal violations associated with exceeding the set speed. In this case, one thousand of them reveals an excess of the so-called average speed. That is, when one camera records the time of entry to the site, the other - the time of departure from it. The time to overcome the site is known, so the average speed is not a problem to calculate. And if it is higher than the established one, it means that somewhere the person was overly accelerated. And for its oversight, it means that it will receive a fine soon.

It is stabilization of high-speed modes that reduces the severity of the consequences of accidents and mortality on the roads. In total, according to Russian statistics, 89 million cases of speeding were detected. By the way, this is 84 percent of the total number of offenses recorded by the automated system. It is worth noting that thanks to the installation of cameras in 2018, more than 1.3 thousand hazardous areas were eliminated on the country's roads.

In this connection, the experience of the Republic of Kazakhstan will be interesting, which gives a clear definition of automatic means of fixing administrative offenses. So article 34-1. The Code of Administrative Offenses of the Republic of Kazakhstan fixes: "certified special control and measuring equipment and instruments in the articles of this Code should understand the technical means and instruments for monitoring and recording offenses that have passed metrological verification, photo and video equipment that record the fact and time of the offense, type, brand, state registration number plate, as well as the speed and direction of movement of the vehicle ". In this case, there are much more signs of such a tool, which clarifies the definition of such tools (Lytkin, 2012).

The next thing that deserves attention will be that moment, which is caused by the complication of the administrative-legal procedure for imposing a fine, by a foreign entity (citizen of another country) (Carter et al., 2014)., for example, the capture of an administrative violation in the field of traffic by means of automatic fixation of cars bearing foreign state signs (Delhomme, 2014). To date, the Convention on Mutual Recognition and Enforcement of Decisions in Cases of Administrative Violations of the Rules of the Road dated March 28, 1997, article 3 of which states: If a person residing in the territory of one of the Contracting Parties has violated the rules of the road in the territory of another Of the Contracting Party, the Contracting Party of the place of the offense may request the Contracting Party of the place of residence to institute administrative proceedings against this person and before be the case of a Contracting Party to the place of residence for the purpose of a final administrative penalty. But at the same time, these rules apply only to the list of administrative offenses that are enshrined in this convention. This list does not contain those offenses that can be recorded on special means. Therefore, these standards cannot be applied.

The problem posed earlier is due to the fact that law enforcement agencies of various countries have their own databases with car signs (Freydier, 2016). At the same time, if a person violates another state, for example, the rules of the road in Russia, the means of fixation establish an offense, however, it is not possible to identify the owner of the vehicle, since there is no single database. In this regard, law enforcement agencies of Russia, Belarus and Kazakhstan plan to establish an exchange of information about violators. A draft of an intergovernmental agreement is being prepared by the countries of the Customs Union. From the draft agreement it follows that if a vehicle with Belarusian and Kazakh license plates is detected, the traffic police will draw up a decision on bringing to administrative responsibility and send it to the owner. If he fails to pay the fine on time, the materials will be sent to the authorized body for the enforcement of the fine (bailiffs). The annex to the agreement contains a list of offenses recorded by cameras that will be recognized by countries. There should be a violation of the speed limit, exit to the oncoming lane, exit to the designated lane and other trains. Information on non-payment of the fine on time will be transmitted to the bailiffs of the Russian Federation, the Republic of Belarus and Kazakhstan. The same fate awaits Russian drivers traveling abroad.

**Results**

An important problem is the problem of proving the offense recorded on the means of fixation. So in the note to article 1.5 of the Administrative Code of the Russian Federation indicates that in the case of fixing an administrative offense by special means of fixation, the person called to account must prove his innocence. Therefore, the presumption of innocence does not apply in this case. However, in a number of foreign countries, the law indicates the need, in addition to data from such funds, additional evidence.

The doctrinal proposes to distinguish two models of legal regulation of this issue. Klimovich E.V. indicates that the data from the fixing means of administrative offenses is not enough to bring to legal responsibility and provides for the mandatory participation of the policeman in the process of processing the materials of the case on the offense (Klimovich, 2010). So, in Scotland, when working with devices for recording violations, the testimonies of two witnesses who are present during the violation are necessary (in this capacity are the policemen who work with

the equipment) (Haeger, 2018). In Sweden, a policeman is required to stop the perpetrator and inform him of the violation (Gaymard, 2017).

The second model, according to the author, is more progressive, since it takes into account the level of technological development and the intensity of traffic flows. It seems that, according to the second model, the presumption of the vehicle owner applies to offenders (Hatfield et al., 2018; Tronsmoen, 2008); Wu et al., 2018).

For a more accurate analysis of the work of these funds, it is necessary to consider the attitude of the public when considering problems associated with the functioning of means of fixing administrative offenses (Hayes, 2017; Lytkin, 2012). It is worth saying that the official traffic police statistics show a positive trend towards a decrease in the number of road accidents. So, in 2017, the number of deaths decreased by 6% (19 088), the wounded - by 2.6% (215 374), and the number of accidents decreased by 2.5% (169 432). This is facilitated by the work of fixing administrative offenses, since these devices have not only a punitive function, in the form of a fine on the offender, but also have a preventive effect on him (Isler, 2011).

However, we have to admit the fact that the number of traffic accidents is large (Lang, 2018), which raises the need for better control over traffic rules. In this regard, a survey was conducted in which 50 respondents participated, the main selection criterion of which is the presence of a driver's license.

The first question that was asked is as follows: "Do you have any offenses recorded on the means of fixing administrative offenses?" A positive answer was given by 16 percent, this indicates that the respondents have a fairly high level of legal awareness and have a serious attitude to the rules of the road.

The second question was composed as follows: "Is it necessary to develop legal regulation in this area?" The answer "yes" was chosen by 80 percent of respondents, this result was caused by a lack of legal certainty, in particular, a gap is seen in the legal consolidation of the concept of means of fixing administrative offenses, as well as their types.

The third question is as follows: "Are the means of fixing administrative offenses positively influencing the maintenance of the rule of law?" Most of the respondents, namely 75 percent answered positively. Based on this, it can be concluded that most respondents have a positive attitude to these funds as one of the regulators of law and order on the roads.

It is important to emphasize that the practice of bringing to administrative responsibility for violation of traffic rules recorded using automatic fixation devices in different regions is developing ambiguously. However, in general, there is an annual increase in the number of persons held administratively liable for traffic offenses recorded using automatic photo and video recording devices (Markšaityte et al., (2017). Statistics in this aspect seems quite serious. So, the employees of the Center for the automated fixing of administrative offenses in the field of traffic police for violations of the Traffic Rules of the Russian Federation identified using special technical means of photo and video recording, working in automatic mode, processed 75,116 photo materials for individuals and legal entities for 3 months of 2016, 69364 were issued decisions on cases of administrative offenses (Petrov, 2017). The total amount of fines imposed amounted to 39286300 rubles (Novaco, 2015).

But, these devices are not perfect. Indeed, no measurement can be performed absolutely accurately, therefore, the desired value in the measurement process has some error. No matter how small this error may be, its knowledge is necessary for a correct assessment of the results obtained (Pyankova et al., 2017). This is especially important for measurements carried out in the process of identifying administrative offenses, since the results obtained are used in the process of proving and in many respects form the basis of the decision on the case (Regan et al., 2011; Rossinsky, 2004; Shimada et al., 2018; Tan et al., 2017;Taubman-Ben-Ari, 2010. Young Note that the fundamental goal of automatic fixation is that when a certain electrical impulse is received from the sensor, the device is triggered. This is what allows us not to record what is happening during the entire time of observation, but to take the corresponding picture exactly at the time of the administrative offense.

Currently, the most developed systems that receive such an impulse are vehicles measuring the speed of vehicles that not only measure the speed of a particular object, but are also able to compare it with a limit set by the operator in advance and send a signal directly if this limit is exceeded. This signal also helps to trigger the camera shutter. It is advisable to assume that the response time of the camera shutter after receiving the signal from the measuring device is important. Since in the case, for example, if the time is long, the camera will not record the car of the intruder, but another vehicle. When a dense stream of vehicles moves at a speed of 60 km / h, a camera's delay of 1 second will cause the car to be almost 17 meters from where the lens is aimed at taking a picture. Therefore, it is likely that the next vehicle will be located at this place.

## CONCLUSION

Thus, the use of special means of fixing administrative offenses is becoming more common every day. Firstly, this is due to a possible reduction in the number of officials performing similar work. Secondly, a mistake in qualifying an offense is minimized. However, further development of these means is necessary: the creation of a unified database of offenders, a clear legal definition of the means of fixing administrative offenses.

The process of optimizing the legislation on administrative offenses in the field of traffic is necessary and this need is supported by constantly improving technical regulation of traffic, reform of the system of governing bodies in this sphere of legal relations.

Ensuring the safety of road users in administrative legal terms should be a set of measures aimed at implementing the rules governing the emergence, development and protection of public relations that form it.

In the end, it is important to pay attention that the situation with the use of special technical means is changing for the better. Fixing aids are being used more and more often and are being introduced into the road sector. Consequently, the need to improve both legislation by eliminating the gaps and contradictions that arise, as well as introducing innovations in line with the development of legal relations, based on law enforcement practice, and technical means by introducing new technologies.

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