

AMURCON 2020
International Scientific Conference**CRIMINOLOGICAL CHARACTER RATING OF PERSONS
DRIVING VEHICLES IN A STATE OF INTOXICATION**

Elena Yurievna Antonova (a)*
*Corresponding author

(a) Khabarovsk State University of Economics and Law, 134, Tihookeanskaya St., Khabarovsk, Russia,
antonovy@yandex.ru

Abstract

Traffic accidents with resulting in death are highly publicized and lead to a tightening of the law policy against persons who commit them in a state of alcohol or other intoxication. It is noteworthy that such crimes are often committed by individuals after the State had taken administrative measures towards them for driving a vehicle while being intoxicated. The article deals with the criminological characteristics evidence of persons driving vehicles in a state of intoxication, being subjected to administrative or criminal measures for a similar act. The authors observe gender and age characteristics of such persons, their educational background, and business occupation. The analysis of regulations, legislative measures to the increase in the number of cases of traffic offence committed by persons in a state of intoxication and crime statistics allow the authors to conclude that criminal justice response to persons driving vehicles in such a state are not effective. This is evidenced by the number of re-recorded cases of driving vehicles in a state of intoxication by persons convicted of administrative or criminal sanctions. The author concludes that it is necessary to expand social and educational measures aimed at improving the cultural and legal level of population, as well as economic and organizational measures. It is argued that it is necessary to ascertain security measure concerned a forced (compulsory) alcohol or drug addiction treatment related to persons who are prone to the consumption of alcohol and other intoxicating substances while allowing driving a vehicle in a state of intoxication.

2357-1330 © 2021 Published by European Publisher.

Keywords: Traffic violation, driving a vehicle, traffic accident, intoxication, administrative penalty, the efficiency of legal norms



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Noncommercial 4.0 Unported License, permitting all non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited.

1. Introduction

According to Federal Authority for Road Traffic Safety of Department of Home Affairs in 2015, the country registered 184,000 road traffic accidents (hereinafter – RTA), which killed 23,114 people, injuring 231,197 people; 173,369 (20,308, 221,140 people, respectively) in 2016; 169,432 (19,088, 215,374 people, respectively) in 2017; 168,099 (18,214, 214,853 people, respectively) in 2018; 164,358 (16,981, 210,877 people, respectively) in 2019; 119,917 (13,076, 151,739 people, respectively) in January-October 2020: Pokazateli sostoyaniya..., 2020).

The RTAs committed by drunk drivers stir particular control. The State has to make a special point to justice response against such persons. Administrative measures have been strengthened. Today, driving of transport vehicle by a driver is in a state of intoxication, if such actions are not offences or penal acts (Part 1, Article 12.8 of the Administrative Violations Code of the Russian Federation), entail the imposition of an administrative fine at a rate of 30 thousand rubles with the withdrawal of the driving licence for the period up to 1,5 or 2 years. If a person drives a vehicle while intoxicated but has no such a licence or is suspended it (Part 3, Article 12.8 of the Administrative Violations Code of the Russian Federation), then he is subjected to administrative arrest (from 10 to 15 days). If administrative arrest cannot be enforced, a guilty person will be imposed an administrative fine of 30 thousand rubles. Administrative measures are quite strict, but the question is put if they are effective and efficient enough?

2. Problem Statement

Statistical data on the number of road accidents committed by drunk drivers, as well as on the number of registered crimes that interfere with social relations in the field of safe functioning of vehicles, and persons convicted of drunk driving, prove the necessity of the state to develop additional measures to precaution and preventive care these socially-dangerous acts.

3. Research Questions

The subject of research is the figures of the road traffic safety situation, crime rate in Russia and the judicial statistics for the years 2015-2019, criminal legislation of the law and the Administrative Violations Code of the Russian Federation regulating social relations in the field of vehicle security, as well as scientific literature (Sostoyaniye prestupnosti..., 2020).

4. Purpose of the Study

The purpose of the study is to identify some features of persons subjected to administrative or criminal measures that allow repeated driving of vehicles in a state of intoxication, to develop proposals aimed at improving measures to prevent such behaviour.

5. Research Methods

The methodological basis of the study is the cognition dialectical approach which implies a combination of general scientific (analysis and synthesis, logical, etc.) and specific scientific (logical-formal, system analysis, comparative law, statistical, etc.) research methods are used.

6. Findings

According to the Supreme Court Justice Department of the Russian Federation in 2015, 444,468 persons were subjected to administrative punishment for driving in a state of intoxication (a decrease of 13.2%); 353,140 persons (a decrease of 25.9%) in 2016; 317,484 persons (a decrease of 11.2%) in 2017; 275,788 persons (a decrease of 15.1%) in 2018; 248,444 persons (a decrease of 11%) in 2019 (Sudebnyy departament pri verkhovnom sude, 2020c). Statistical indicators, despite the decrease, remain significant. The latency level of such acts is also high, which largely contributes to the repeated violation of road laws (hereinafter referred to as traffic law) by drivers in a state of intoxication, including those subjected to punishment for this fact.

The danger of such persons is that under the influence of intoxicating substances, a person seeks to get new and intense sensations, regardless of the risk of legal liability or even death coming. One of the ways to get these feelings is the speed enforcement of a vehicle, because, in a state of intoxication, the sense of danger decreases, control over one's behaviour is lost (Aksenova-Sorokhtey et al., 2018).

These circumstances reduce the effectiveness of legal arrangements of influence.

The notion of effectiveness means the ability of criminal law to achieve the goals of criminal law impact (Bytko & Varygin, 2019). It will be possible to speak about the effectiveness of the measures taken by the State in this issue only if the growth rate of traffic violations by intoxicated persons is significantly reduced and such acts are controlled by the State.

Effective control should include mechanisms to ensure that drivers identify the use of intoxicating substances and their respective responsibilities and restrictions (Korobeev & Chuchaev, 2018).

For example, foreign experience shows that unexpected random selective blood alcohol tests of drivers are effective methods, which makes people who are prone to drunk driving afraid to be tested, as well as the arrangement of breathalyser checkpoints (Artemov et al., 2016).

To achieve this effect, in 2014 the legislative establishment criminalized the violation of traffic rules by a person subjected to an administrative penalty (Article 264.1 of Criminal Code of the Russian Federation). An offender is a person who drives a motor vehicle while intoxicated, and a) were subjected to administrative punishment for offences provided by Parts 1, 3 of Article 12.8 or 12.26 of the RF Administrative Code (administrative collateral estoppel/ issue preclusion); or b) convicted for the fatal crash (Part 2, 4, or 6 of Article 264 or 264.1 of the RF Criminal Code) (criminal collateral estoppel).

Accordingly, driving a vehicle under the influence of alcohol is not enough to bring a person to justice. You need to record a re-commit an administrative violation and a penalty of deprivation of the licence to drive a vehicle of either the outstanding conviction for committing a crime under Parts 2, 4, or 6 of Article 264 of the Criminal code (Agildin, 2016).

While on the one hand, the re-fact may indicate that the person is supposed to be in flagrant breach, who is characterized by a tendency to a regular alcohol and other intoxicating substances addiction, lasting anti-social attitudes, which are shown in infringement of a rule of law, but on the other hand, “re-committing crimes ... may be the result of an accident, principally different motives than those by which the crime was committed earlier” (Bytko & Varygin, 2019, p. 165). Therefore, the issue of criminalization of crimes with administrative preclusion is controversial.

The introduction of Article 264.1 of the Criminal Code of the Russian Federation cannot but affect some deterrent effect of an administrative offence, but it is insufficient. This is evidenced by the above statistics and data on the number of registered crimes and the number of convicted persons.

Thus, in 2015, 41,030 crimes under Article 264.1 of the Criminal Code of the Russian Federation were registered (18,987 persons were convicted), in 2016, 85,257 crimes (75,256 persons were convicted); in 2017, 81,171 crimes (71,981 persons were convicted), in 2018, 73,106 (66,287 persons were convicted), in 2019, 68,035 crimes (59,543 persons were convicted) according to the crime rate in 2015-2019 (Sostoyaniye prestupnosti..., 2020); the Report on the diversity of convicted persons. Form No. 11; the Report on the demographic characteristics of convicted defendants. Form No. 11.1). Comparison of these data with the total number of crimes registered in the country and convicted persons shows that in 2015, the proportion of registered crimes regulated by Article 264.1 of the Criminal Code of the Russian Federation was 1.7% (the share of convicted persons was 2.6%), in 2016, it was 3.9% (10.2%), in 2017, it was 3.9% (10.3%), in 2018, it was 3.7% (10.1%), in 2019, it was 3.4% (10%).

To develop effective measures of influence, it is necessary to consider the problem comprehensively, to study the identity of persons who commit such acts. The reason is that a person is a social being, who develops in society and absorbs all its negative phenomena.

Let’s start with the fact that women are much less likely to commit the offence in question. Thus, in 2016, 1,898 women (2.5%) were convicted under this Article, in 2017, 1,898 of them were convicted (2.7%), in 2018, they amounted to 1,811 (2.7%), in 2019, they amounted to 1,641 (2.7%). It is noteworthy that there are pregnant women among them (1-1. 26%), and those who have a child younger than 3 years old (4.1-5.1%). In 2016, 16 women of retiring age (55 years and older) were convicted, in 2017, they amounted to 33, in 2018, they amounted to 21, in 2019, they amounted to 28 (Sudebnyy departament pri verkhovnom sude, 2020a, 2020b).

The age characteristics of persons committing a crime under Article 264.1 of the Criminal Code of the Russian Federation indicate greater criminogenic activeness of persons aged 30 to 49 years (Table 1).

Table 1. Age of persons convicted of a crime under Article 264.1 of the Criminal Code of the Russian Federation (data of the Supreme Court Justice Department of the Russian Federation, in 2016-2019, the Report on the diversity of convicts. Form No. 11; the Report on the demographic characteristics of convicts. Form No. 11.1)

	16-17 years old	18-24 years old	25-29 years old	30-49 years old	50 years old and older
2016	112	11 331	19 404	38 801	5 610
2017	98	9683	17 045	39 466	5 689
2018	79	8383	14 602	37 607	5 616
2019	81	7146	12 602	35 072	5 144

From the data presented in Table 1, it can be seen that persons aged 16-17 years are less likely to commit the crime in question – 0.1%, which is due to get a driver’s license only at the age of 18-year-old. It is important to keep in mind that young people and adolescents do not have the necessary life experience and stable positive values. In certain life situations, they are not always ready to make the right decision (Luneev, 2011). Therefore, even a small number of cases of juveniles committing the act in question is the basis for carrying out preventive work among persons of this age group.

The proportion of persons aged 18-24 years and 25-29 years, convicted of this crime, decreased a little. In 2016, the proportion of people aged 18-24 years was 15%, in 2017, it was 13.4%, in 2018, it was 12.6%, in 2019, it was 12%, and those aged 25-29 years was 25.8% in 2016, in 2017 it was 23.7%, in 2018, it was 22%, in 2019, it was 21.2%. With a slight decrease in the absolute indicators of convicted persons, there is an increase in the proportion of such persons in the other age groups. In 2016, the proportion of convicts aged 30-49 years was 51.6%, in 2017, it was 54.8%, in 2018, it was 56.7%, in 2019, it was 58.9%. In 2016, the proportion of convicts aged 50 years and older was 7.5%, in 2017, it was 7.9%, in 2018, it was 8.5%, in 2019, it was 8.6%.

It is also interesting to analyze the educational background of persons convicted of a crime under Article 264.1 of the Criminal Code of the Russian Federation (Table 2).

Table 2. Educational background of those convicted of a crime under Article 264.1 of the Criminal Code of the Russian Federation (data of the Supreme Court Justice Department of the Russian Federation, in 2016-2019, the Report on the diversity of convicts. Form No. 11; the Report on the demographic characteristics of convicts. Form No. 11.1)

	Higher Education	Vocational Secondary Education	Secondary Education	Compulsory education, Primary Education, or no education
2016	6718	33 153	25 455	9930
2017	6863	32 080	23 682	9356
2018	6522	29 767	21 321	8677
2019	5980	25 973	19 098	8497

Table 2 shows that persons who have a vocational secondary education are more likely to commit the crime in question (43.6-44.9%), persons with secondary education takes the second place (32-33.8%), persons with compulsory education are in the third place (12-14.2%) and persons with higher education are in the fourth place (8.9 – 10%). Despite a smaller number of persons with higher education who repeatedly admit the violation under consideration, their share increased from 8.9% in 2016 to 10% in 2019.

By all means, the education background cannot be directly linked to a certain type of criminal behaviour. This connection is mediated through the individual’s culture, interests, and needs. The content of them, along with other conditions, is determined by the person’ education (Luneev, 2011). In addition to that, the presented data indicate a consistently high level of persons who commit the crime in question, who have vocational secondary education, which should be taken into account when choosing preventive measures.

By occupation, the largest group of people consists of able-bodied persons with no steady source of income. In 2016, 41,240 such persons were convicted, in 2017, they were 38,757, in 2018, they amounted

to 34,773, in 2019, they were 34,326. The next group consists of laboring men: in 2016, 24,740 persons of vocational professions were convicted, in 2017, they were 23,998, in 2018, they were 23,149, in 2019, they were 18,310. Plenty large enough number of persons who commit this crime are disabled: in 2016, 3,845 such persons were convicted, in 2017, they were 4009, in 2018, they were 3,593, in 2019, they were 2,068 (Sudebnyy departament pri verkhovnom sude, 2020a, 2020b).

In 2016, among those convicted of the crime in question, 612 persons were students (students), in 2017, 570 students were convicted, in 2018, 537 students were convicted, in 2019, 492 students were convicted (Sudebnyy departament pri verkhovnom sude, 2020a, 2020b).

The lowest amount of convicted persons is persons of the legal professions. In 2016, 6 lawyers, notaries, external accountants, 0 judges (court officials), 37 other public law enforcement officials were convicted, in 2017, they were 8, 0, 36, in 2018, they were 6, 0, 22, in 2019, they were 4, 1 and 32, respectively. There is a bit more conscripts or contract servicemen: in 2016, they were 286 persons, in 2017, they were 277, in 2018, they were 211, in 2019, they were 199 (Sudebnyy departament pri verkhovnom sude, 2020a, 2020b).

Criminologists note that the identity of drivers who commit a traffic accident in a state of intoxication is characterized by systematic violations of traffic rules, as well as certain opposition when taking a physical examination on blood alcohol intoxication. The reasons of accidents happened due to the fault of such persons are their irresponsibility, contemptuous disregard of social norms referred to road users, and a distorted assessment of the danger level (Aksenova-Sorokhtey et al., 2018).

7. Conclusion

- 7.1. The review of the personality of those convicted of a crime under Article 264.1 of the Criminal Code of the Russian Federation shows that this act is the most often committed by men in the age group of 30-49 years, who have mainly vocational secondary education, able-bodied with no stable income source.
- 7.2. Persons driving a vehicle in a state of intoxication, being subjected to administrative or criminal punishment, mainly are thoughtless, although the subjective side of the crime under Article 264.1 of the Criminal Code of the Russian Federation is characterized by an intentional fault. These individuals are characterized by a thoughtless attitude to driving vehicles (source of increased danger), lack of ability to predict the actual and legal consequences of their actions. Such persons have personalized interests that prevail in social ones, which they neglect.
- 7.3. According to the depth of resistance, such persons are classified as habitual traffic offenders. They have an everlasting anti-social positioning, or 'unstable' ones with a changeable moral values of the individual. Such persons are prone to systematic intoxicating substances addiction.
- 7.4. Criminological characteristics of persons convicted of driving vehicles in a state of intoxication, being subjected to administrative (criminal) enforcement measures, indicate the need to improve the cultural level of population, do preventive work with different groups of the population. Only the fear of punishment is not able to deter individuals from socially dangerous acts focused. Compulsory treatment for alcoholism or drug addiction should be one of the security measures

for people who are prone to intoxicating substances addiction, who admit driving in a state of intoxication.

- 7.5. It is necessary to expand social and educational measures aimed at improving the legal level of population and economic and organizational measures. The State should conduct an outreach campaign to inform the population about the effects of intoxicating substances on the human body, the negative consequences of drink-drive, and the legal consequences of violating traffic rules while intoxicated. The purpose of these events is to develop a 'zero tolerance' of the population to the facts of driving in a state of intoxication.

References

- Agildin, V. V. (2016). Nekotoryye momenty ugolovno-pravovoy politiki bor'by s dorozhno-transportnymi prestupleniyami (na primere stat'i 264.1 UK RF). [Some aspects of the criminal law policy concerning road traffic crimes (on the example of Article 264.1 of the Criminal Code of the Russian Federation)]. *Criminological Journal of Baikal State University of Economics and Human Rights*, 10(1), 117-125. [in Russ.].
- Aksenova-Sorokhtey, Yu. N., Baranovskaya, E. A., Kuzmin, O. L., & Mahanek, A. B. (2018). Aktual'nyye problemy ustanovleniya sostoyaniya op'yaneniya litsa, upravlyayushchego transportnym sredstvom, pri rassledovanii dorozhno-transportnykh prestupleniy [Actual problems of establishing the state of intoxication of a person driving a vehicle during the investigation of road traffic crimes]. *Pan-Russian Journal of Criminology*, 12(3), 375-386 [in Russ.].
- Artemov, V. Yu., Vlasov, I. S., Golovanova, N. A., Zakson, A. Y., Kasatkina, N. M., Kashirkina, A. A., Kubantsev, S. P., Menshikh, A. A., Morozov, A. N., Nozdrachev, A. F., Pilipenko, A. N., Sakovich, O. M., Semykina, O. I., Timoshenko, I. G., Treshchetenkova, N. Y., Troshchinskiy, P. V., Chernukhina, L. S., & Chursina, T. I. (2016). *Zakonodatel'stvo ob otvetstvennosti za narusheniya pravil dorozhnogo dvizheniya v sostoyanii alkogol'nogo i narkoticheskogo op'yaneniya. Zarubezhnyy opyt i yego retseptsiya v rossiyskom zakonodatel'stve [Legislation on liability for violation of traffic rules under the influence of alcohol and drugs. Foreign experience and its reception in the Russian legislation]*. INFRA-M [in Russ.].
- Bytko, S. Yu., & Varygin, A. N. (2019). Nekotoryye metodologicheskiye voprosy otsenki effektivnosti predupreditel'nogo vozdeystviya ugolovnykh nakazaniy [Some methodological issues of assessing the effectiveness of the preventive impact of criminal penalties]. *Perm University Bulletin. Legal Sciences*, 43, 146-177. <https://doi.org/10.17072/1995-4190-2019-43-146-177> [in Russ.].
- Korobeev, A. I., & Chuchaev, A. I. (2018). Opredeleniye ponyatiya op'yaneniya priznano nekonstitutsionnym [The definition of intoxication found unconstitutional]. *Lex russica*, 17(140), 135-157. <https://doi.org/10.17803/1729-5920.2018.140.7.135-157> [in Russ.].
- Luneev, V. V. (2011). *Kurs mirovoy i rossiyskoy kriminologii [World and Russian criminology Course]*. Yurayt Publishing House [in Russ.].
- Sudebnyy departament pri verkhovnom sude. (2020a). Otchet o demograficheskikh priznakakh osuzhdennykh po vsem sostavam prestupleniy Ugolovnogo kodeksa Rossiyskoy Federatsii za 12 mesyatsev 2018-2019 gg. [Supreme Court Justice Department. Report on demographic characteristics of convicted persons for all crimes of the Criminal Code of the Russian Federation for 12 months of 2018-2019. Form No. 11.1]. Retrieved from on 27 December 2020 from <http://www.cdep.ru/index.php?id=79> [in Russ.].
- Sudebnyy departament pri verkhovnom sude. (2020b). Otchet o sostave osuzhdennykh, meste soversheniya prestupleniya za 12 mesyatsev 2015-2017 gg [Supreme Court Justice Department. Report on the diversity of convicts, the crime scene for 12 months of 2015-2017. Form No. 11]. Retrieved from on 27 December 2020 from <http://www.cdep.ru/index.php?id=79&item=3418> [in Russ.].
- Sudebnyy departament pri verkhovnom sude. (2020c). Otchet o rabote sudov obshchey yurisdiksiii po rassmotreniyu del ob administrativnykh pravonarusheniyyakh za 12 mesyatsev 2015-2019 gg.

[Supreme Court Justice Department. Report on the work of general jurisdiction court on the cases of administrative offenses proceedings for 12 months of 2015-2019. Form No. 1-AP]. Retrieved on 27 December 2020 from <http://www.cdep.ru/index.php?id=79> [in Russ.].

Pokazateli sostoyaniya bezopasnosti dorozhnogo dvizheniya. 2015-2019 gg. Gosavtoinspektsiya. (2020).

[The road safety rate Indicators. 2015-2019 State Road Safety Unit]. <http://stat.gibdd.ru/> [in Russ.].

Sostoyaniye prestupnosti v Rossii za yanvar'-dekabr' 2015 g. – 2019 gg. Ministerstvo vnutrennikh del RF.

[Crime rate in Russia for January-December 2015-2019 Department of Home Affairs of the Russian Federation]. 2020. <https://xn--b1aew.xn--p1ai/folder/101762> [in Russ.]