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PENALTIES FOR THE ROAD TRAFFIC OFFENSES - THE GOAL IS TO PUNISH OR TO EDUCATE?

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Abstract

Purpose – Lithuanian legislations regulating road traffic procedures indicates, that main purpose of legal regulations is to improve traffic safety requirements on roads in order to protect the life, health and property of road users and other persons, to improve transport and pedestrian traffic conditions (Law of the Republic of Lithuania on Road Safety, 2000). Therefore, the main purpose of this study is to investigate the effectiveness of Lithuania legislation in the field of road safety management, as well as to ascertain the problems for seeking the goal indicated in legal regulations.

Design/methodology/approach – the research paper is based on qualitative-comparative document analysis method for comparing statistical data, case law decisions, publications and legislation in the field of road traffic offences. The analysis, evaluation and interpretation of case law decisions, as well as claims related to the cases of administrative offences for the violation of road traffic regulations in Lithuania, are taken into account by summarizing research conclusions.

Finding – the legal legislation and its implementation for the road traffic offenses in Lithuania (hereafter – RTO) are goal orientation mechanism. The formally indicated aim of these regulations are noticed to be the purpose of educating people and fulfilling the pursuit of the legislation in reaching the aim to ensure the protection life, health and property of road users and other persons. Thus, investigation and the results of this research pointed out dysfunctional areas of implementation of such regulations as well as reasonable doubt for its purpose, seemingly indicating the pursuit to seek different goal to punish, to show the high number of results of offences, which have been investigated or to gain profit in the process of implementing the requirements of traffic rules, by applying fines, thus education and teaching society is not implemented productively.

Research limitations/implications – to indicate the gaps in the legislations of the requirements of traffic rules, to understand what should be improved to seek the goal of narrowing down such offences, thus, it is inevitable to investigate and point out the indicators, which specifies the different purpose and its implementations for penalties imposed for the violation of road traffic regulation in Lithuania.

Practical implications – the comparative analysis provides a background on further discussions concerning legal ways to apply road traffic regulations by seeking its true purpose.

Originality/Value – there are no recent scientific research carried out in which the legal requirements of offences for the violation of road traffic regulations in Lithuania were analysed. There are limited access of academic insights analysing the issues of the goal of implementing the indicated penalties for such offences and reasonable solutions to reduce the growing numbers of such violations in Lithuania.

Keywords: road traffic offences, penalties, purpose of implementation.
Research type: research paper.
JEL classification: K23, K42.

Introduction

A retrospective analysis of the reports submitted by the police authorities on road traffic offences shows, that the number of road traffic offences in Lithuania, has been increasing from

2008 to the present day, resulting gaps for ensuring safety for road users and a failure to meet the targets set out for the reduction of the trend in the number of offences. The legislations regulating road traffic procedures indicates the main goal, to improve traffic safety requirements on roads in order to protect the life, health and property of road users and other persons, to improve transport and pedestrian traffic conditions (Law of the Republic of Lithuania on Road Safety, 2021). The law and regulations are one of the most important factors of improving traffic safety, therefore, Yue Zhang et al. highlight that "among many factors, the traffic law is considered an effective measure to reduce the severity of injuries and the number of fatalities as a means of macroeconomic regulation and control" (2020). Thus, the analysis of Lithuanian statistical data on road traffic offenses indicates otherwise as well as evaluations of protocols and legal acts for the offences of road violation. Using the retrospective assessment, when assessing the past situation and its change, examining the reports of the work of police institutions in carrying out traffic supervision from 2008 to 2020, an increasing trend of traffic violations in Lithuania have been observed. The number of road traffic offenses detected in 2008 is almost forty-two thousand, while in all twelve months of 2020 more than four million road traffic offenses are recorded, which presupposes, that the Lithuanian law enforcement and law enforcement system and road prevention of traffic offenses do not work properly, thus do not seek the goal indicated in the legislations of Lithuania (Statistics on road traffic offenses, 2021).

Therefore, the finding of the fact, that the mitigating circumstances provided for the Code of administrative offences of Republic of Lithuania (2021) and the possibility to not penalize the road violation offense, or to issue only a warning, or another alternative measure of responsibility, so that a person in fault could learn from his mistakes, without imposing a fine, thus this possibility are rarely applied by the law enforcement officer in charge. Research results and analysis also constituted, that more cases related to imposed fines of road traffic offences indicates a problem of not providing all the requested the information to the accused person, therefore above-mentioned indications, raises doubts about the adequacy of the regulatory framework. Thus, these indications also arises reasonable doubt of the purpose of the legislation of the requirements of traffic rules in Lithuania and the effectiveness of our legislation, as well as the ways to seek the goal indicated in it. Therefore, it is stated, that the behaviour of road users is based on mutual respect and caution, and they must be familiar with the Law on Road Safety of the Republic of Lithuania, know the Rules and follow them, as well as obey the lawful requirements of the officials inspecting vehicles and authorised officers of the authorities responsible for road maintenance. Traffic regulators, comply with their instructions, and observe the behavioural procedures laid down in the Rules, when are stopped by the inspecting officials. According to Coglianese, C. and Mahboubi, N. A. "people and their behaviours are far from static - even sometimes in the most regimented of

societies. As a result, lawmakers and public health officials need to be prepared to adapt their strategies and their rules" (2021). Therefore, there are no mandatory specific rules indicating the responsibilities and proper procedure implementation of officials, considering matter of proper informing the road offender. These amendments in mentioned regulation could be beneficial for both the parties and could be one step closer for narrowing number of violations, thus the regulations should be adapted accordingly to the changes of society. N. M. Kazis has indicated, that two systems of law play particularly important roles in the concept of traffic crimes, meaningly the criminal and tort law, not only the administrative law have to be taken into account "Both provide a mechanism for sanctioning dangerous drivers and deterring future crashes. Both can apply to the same event—any given crash is potentially criminal, tortious, both, or neither" (2016). According to Milad Delavary Foroutaghe, at. al., the traffic ticket fines have been increased in Iran as well, study evaluated the effects of the law enforcement on reduction in the incidence rate of road traffic fatality, the incidence rate of road traffic injuries and the incidence rate of rural road traffic offense (2020), and concluded, that the legal legislation is not the key when it come to narrowing numbers of road traffic offences. Therefore, according to the World health organization report approximately 3400 road users were killed in traffic accidents on a daily basis in low and middle-income countries (2018), therefore interventional methods should be taken into force, for decreasing the growth of road traffic offences and in this way ensuring the safety of road user. The study conducted by S. Plessis, at. al., states, that "in South Africa by nature are extremely difficult to detect and punish and that the administrative and legal processes for punishing transgressors of traffic laws function very poorly" (2020). Another problem a legal framework for this purpose, thus with the necessary political will, it should be possible to deter many transgressions of traffic laws by more effective penalisation of reckless and negligent behaviour. S. Plessis, at. al., also indicated, that "improvement of road safety outcomes in South Africa requires law enforcement reforms, as well as changes to the informal institutions shaping the behaviour of road users" (2020). It should be noted, that according to Lithuanian legislation, a person can only be found guilty of an administrative offence if sufficient prima facie evidence of his or her guilt is collected, there is no reasonable doubt, that the person charged committed the offence and the offence was committed intentionally or recklessly, in breach of the rules of law. So, by law, the administrative penalties, could not be implicated in all road traffic violation cases, thus firstly the fault of the offender have to be objectively proven. Thus, a study conducted by Milad Delavary Foroutaghe, at. al., indicated, that "increased traffic fines as another intervention was also unable to achieve its target of reducing associated deaths and injuries and this happened probably due to the improper implementation of this policy to reduce hazardous moving violations" (2020). Therefore, it is important to take into account, that the "regulating well necessitates 'obligation management:' the adjusting and adapting

of both rules and unrules in the face of changing risks, technologies, economic conditions, and knowledge of the world's conditions" (Coglianes, C. and Mahboubi, N. A., 2021). In the Lithuanian case law, it is held, that a person shall be held administratively liable only if the constituent elements of the administrative offence (subject, object, subjective elements and objective elements) are established on the basis of the evidence in the case, in which case there is no culpability, motive and intent to commit the offence, and there is also no causal link between the culpability and consequences. According the Administrative Offences Code of the Republic of Lithuania (further – AOC) article 591 first part (2021), administrative proceedings cannot be opened and must be discontinued if the act committed does not constitute an administrative offence. The constituent elements of an administrative offence are the totality of the objective and subjective elements provided for by law which characterise an act as a specific administrative offence. If at least one of these elements is absent, the constituent elements of an administrative offence are absent. Thorough and equal responsibilities of the parties, targeted and detailed applied regulation could be one of the ways to ensure mutual respect and cooperation of all the parties, which could lead to the goal orientated results.

1. The most common road traffic offences and fines

Based on an analysis and comparison of statistical data, some of the most frequent traffic offences in Lithuania are: speeding, failing to stop at a pedestrian crossing, use of a mobile phone, stopping and parking in disregard of road signs and markings, and driving through a prohibited traffic light (Statistics on road traffic offenses, 2021). According to the data of 2008 speeding more than twenty kilometres per hour amounted to more than thirty-six thousand offences (Statistics on road traffic offenses, 2008). Four years later, the numbers have changed and exceeded to sixty-four thousand, after another four years, the numbers of recorded cases of these offences has reached almost eighty thousand (Statistics on road traffic offenses, 2012), and the numbers of such offences after the last more than decade has increased over to the one million mark (Statistics on road traffic offenses, 2021). Thus, not only Lithuania has the issues regarding increasing numbers of road violations, other countries indicates similar problems in the same area. According to the research results of Ejikeme Jombo Nwagwua and others, conducted in Nigeria, their data showed, that "speeding, mechanical faults, loss of control, drug and alcohol abuse and overloading of vehicles are leading causes of road accidents in Ghana. Consequently, from 2005 to 2007 Ghana recorded 5637 road accidents deaths with pedestrians accounting for 42% of this figure" (2020). Therefore, other study indicated, that "in South Africa also show that inappropriate speeding, drink driving, reckless driving, mechanical faults and environmental conditions constitute causative factors of road accidents which accounted for 26.6% fatalities per 100,000 inhabitants" (Ncube, et al., 2016).

According the International transport forum report, in Austria in 2017 speed was reported to be responsible for 14% of all injury crashes and 24% of fatalities, in addition, road accident death per 100,000 population decreased by 73% since 1990 with road fatalities figure from the year 2000 to 2015 put at 2232 notwithstanding the fact that the number of vehicles per 100,000 inhabitants increased by 38% (ITF, 2017). The major challenges for Nigeria, has been confronting in building up its institutional capacity to enhance the realisation of the road transport safety standardisation are financial constraints. Therefore, according the findings of K. Y. Olagunju, the poor financing is a serious impediment in actualisation of its set goals as well as the untimely release of budget allocations to the authorities, has fundamentally weakened its capacity to cope with the unending challenges on the Nigerian roads (2018). It can be assumed, that the current legal framework in Lithuania, which is based on the drawing up a report and imposing the fine, are not very effective and does not achieve the objective of ensuring road safety, by only sanctioning road traffic offenders. According to the studies of Yue Zhang, at. al., "penalties results in a decrease of annual fatal traffic accidents by 12.52% in the short run and 25.65% in the long run, which has the greatest inhibitory effect on fatal traffic accidents among the analyzed laws. <…> Therefore, controlling the DUI behaviors and modifying the red running law may significantly reduce the frequency of annual fatal traffic accidents, which provide guidance for future traffic law development" (2020). Therefore, penalties are not the most effective way for reducing road violation offences, so punishment methods should be applied accordingly, taking into account other measures, such as educating the society and officers as well. In Lithuania, one of the most common road traffic offences include running a prohibited traffic light. Comparing the 2008 - 2020 reports retrospectively over four-year intervals, an increase in these offences is also identified. The number of offences recorded in 2008 amounts to just over half a quarter of a thousand detected cases (Statistics on road traffic offenses, 2008) in 2012 the number rises by just over five hundred cases, and four years later the number drops just by about a quarter (Statistics on road traffic offenses, 2012), while the number of such infringements after a decade increased by thirty-nine thousand infringements in 2020 (Statistics on road traffic offenses, 2021). The increase of the numbers of infringements can also be explained by the increase in technological advances. Thus, Kseniya Kovalenko indicates, that "The use of devices for fixing violations significantly increases the effectiveness of supervision over the observance of the Rules of the Road, drastically reduces the number of violations" (2019), thus this is not the case in Lithuania, according the statistical data analysis. Therefore, the Yu. I. Migachev indicates, that "over the course of years, of which more than 5 billion rubles will be spent on equipping the road-road network of cities and other settlements, regional roads with automatic control systems and identifying violations of traffic rules" (2018), expecting, that these measures will be most effective way to decrease numbers of

road traffic offences, which, according to Lithuanian statistical data is not the most efficient way to get the best results, because in Lithuania the usage of technologies are very evolved and widely applied. Therefore, Kseniya Kovalenko states, that “The functioning of traffic control systems and photo and video recording systems of violations of the Traffic Regulations on Russian roads are promising directions in the field of road safety, which help the State Traffic Inspectorate to most effectively carry out prevention and reduction of road traffic injuries on the country's roads” (2019), thus the results in Russia haven’t been evaluated yet. Therefore, the question arises as to whether the legal regulation and its implementation, as well as more technologically affective ways of identifying the offences, does not become a means of supplementing the budget? In which case, the system does not aims to educate and enlighten the society, to improve the system of prevention of infringement, to inform individuals about possible infringements of the law and financial consequences by committing them, therefore not in any way inducing the preventive purposes. Therefore, the application of mitigating provisions, which may be adapted in individual cases by imposing an administrative fine, which is lighter than the financial penalty, by providing the person with just a warning, giving a period of correction and probation, and appropriate information and clarification to ensure, that similar infringements would not occur in future, perhaps could be more beneficial solution, than applying the fines and punishing road users. Another common growing road traffic offence is the failing to stop at a pedestrian crossing when required to do so by road traffic rules. It should be noticed, that this offence is also the subject of disputes and lawsuits to prove the illegality of the protocols issued for the offence. In one of the administrative offence cases in question for failure to stop at a pedestrian crossing, the administrative proceedings against the person concerned had to be discontinued by a decision of the Court of Appeal. The appellant was fined EUR 60 for failing to slow down his car when approaching an uncontrolled pedestrian crossing, and for failing to stop in front of the road sign 'Pedestrian crossing' in order to pass a pedestrian standing in front of the and waiting to enter, thereby infringing the provisions of the adopted Road Traffic Regulations. Disagreeing with the decision of the authority, the applicant appealed against the decision to the Kaunas District Court, requesting its annulment and the termination of the administrative offence case, but the decision of the Kaunas District Court did not satisfy the claim and upheld the decision of the authority granted (Case No. AN2-435-397/2021, 2021). The appellant disputed the district court's assessment of the evidence and argued that he had not infringed the rules of the road and that his actions had not caused any danger to other road users. According to the rules of the road (hereafter – ROR), a driver must give way to a pedestrian who is crossing in any lane in the direction of his/her direction of travel, or who is walking or standing on the edge of the lane and waiting to cross. In the present case, both the authority and the district court found that the pedestrian was standing within the pedestrian crossing, i.e. on the curb,

next to the carriageway and waiting to cross the street, when the applicant's car was still in front of the pedestrian crossing, but the higher court, after assessing the evidence in the case, upheld the arguments of the appeal, that both the photographs submitted by the authority and the slow-motion video submitted by the appellant clearly and obviously show that, as the car is approaching the pedestrian crossing, the pedestrian is also just approaching the crossing, completing her final steps, and only stops when the car is either approaching the pedestrian crossing or has crossed it. As the uncontrolled pedestrian crossing is not marked with the appropriate marking lines due to ongoing road works, the higher court is not in a position to say for sure whether the car is already crossing or has already crossed the pedestrian crossing when the pedestrian has stopped, However, the Regional Court notes that this circumstance does not negate the fact that, when the pedestrian approached the pedestrian crossing, the pedestrian was not yet standing on the lowered pavement next to the carriageway and was not waiting to cross the street, as established by both the Authority and the District Court in their decisions. ROR article 44 constitutes, that pedestrians are only allowed to enter the carriageway after assessing the distance to approaching vehicles and their speed and making sure it is safe to do so. In the present case, it is clear from the video recordings in the case that the pedestrian, when attempting to cross the carriageway, was assessing whether it was safe to do so, and that she only entered the pedestrian crossing after the car had passed another vehicle, and it is therefore concluded, that the car, when the pedestrian stops on the carriageway, has already passed the pedestrian crossing and does not pose any danger or influence the pedestrian's behaviour, and therefore there is no reason to conclude that the person has committed an administrative offence under AOC article 417 fourth part. Every road user must be informed, educated and enlightened about the rules of the road, their enforcement and the exercise of his/her rights, as a person can only be found guilty of an administrative offence if there is sufficient evidence of his/her guilt beyond reasonable doubt. According to statistics, in 2008 the number of such offences was below three thousand (Statistics on road traffic offenses, 2008), in more than a decade, the number of jaywalking incidents recorded as significantly higher, reaching almost twenty thousand cases in 2020 (Statistics on road traffic offenses, 2021). Therefore, the non-compliance with road traffic rules, signs or markings for parking, or stopping was already recorded more than a decade ago at a rate of more than fifty thousand cases per year, and the numbers have remained the same in 2016 (Statistics on road traffic offenses, 2016). Thus by 2020 the numbers have grown to an eight hundred thousand cases per year (Statistics on road traffic offenses, 2021). The fact that the development and evolution of technology has a significant impact on people's behaviour and on the upward increase of number of road traffic offences, can be constituted from the statistical data on violation of the prohibition of the use of hand-held mobile communication devices by drivers, therefore by 2020 almost eight hundred thousand cases per year of these

offences were detected in Lithuania. The statistics on the infringements have risen from just over twelve thousand recorded offences in 2008, which have doubled four years later, as well as eight years after, and the statistics of 2020 figures showed more than tenfold increase in amount of almost two hundred thousand infringements per year (Statistics on road traffic offenses, 2021). Although, the increase in numbers can be justified by the development of technology, the supply and demand for automotive transport on the market, still, such numbers and growth of offences, indicates, that the existing legal framework and the penalties imposed are not effective and should be adjusted, taking into account the social evolution of society, its needs and its capacity to adapt and improve. Therefore, other researches in other countries have showed, that the effectiveness of the system are not directly dependable on the quality of legislation. According to E. J. Nwagwua, at. al., "The efforts of the government to regulate the unlawful behaviour of road users through its agency – FRSC in enforcing the implementation of subsisting Highway Code have yielded minimal results. The level of illiteracy among road users and the degree of recklessness on roads depict a huge gap in realisation of FRSC's statutory functions" (2020). E. J. Nwagwua's research indicates, that in order to accomplish better results at narrowing the numbers of road violations, that authorities have to "to embark on sensitisation of road users through seminars, workshops, and adequate presence in the media, and to have a permanent and proactive presence on highways to circumvent impending road accidents". Therefore according to C. Bicchieri and H. Mercier "much of the existing theoretical work on informal institutions by economists has relied on questionable assumptions about the rationality properties of human behaviour. Cognitive and behavioural scientists, however, have made considerable progress as far as understanding change in values and norms is concerned" (2014). Therefore, in today's environment, in an age of abundant technology, in the context of civil circulation and traffic, appropriate solutions can be sought to resolve the aforementioned problems, in order to achieve an effective legal regulation for ensuring safe traffic in Lithuania. It also, could be mentioned another point of view, considering what solutions could be beneficial for reducing road traffic offences, without applying the fines to offender, are the development of usage of autonomous vehicles. According to the T. J. Cowper, at. al., research, soon all cars will be capable to drive without a human control, which will prevent road users from violating traffic law regulations "Today, people view driving someplace as an active process. But, humans make mistakes, and their decision making leads to crashes. In the future, there will be no driver, and speed largely will become irrelevant. Going from one point to another simply will act as a time extension for whatever else individuals do (e.g., work, sleep, read, daydream) when not traveling" (2018). "Each year globally, approximately 1.25 million people die in traffic accidents, and more than 90 percent of those crashes result from human error" (US. DOT, 2017). Kirsten Korosec noted, that in the United States, over 40,000 individuals were killed and 4.6 million

injured in road accidents during 2016 (2017). Thus, at the National Conference of State Legislatures in the 23th of October in 2017 it was announced, that "The adoption of these vehicles has significant implications for law enforcement. Agencies and officers must prepare for the autonomous revolution of the next decade" (NCOSL, 2017). According to Thomas J. Cowper "With both human-operated and driverless vehicles on the road, the purpose and methodology of traffic enforcement will need to change. Today, officers make such decisions knowing that a person is driving. Tomorrow, they cannot make that assumption. <…> from there, traffic enforcement becomes much less straightforward" (2018). Therefore, it could be assumed, that technical innovations in the field of advancing vehicles, could be one of the solutions for narrowing down numbers of road traffic offences in the near future, thus question arises, would the decreases of road traffic violations would be considered as beneficial to authorities as well, because the narrowing down these offences practically would be a step up to gathering less payments from fines to a budget due to indicated traffic violations.

2. Specificities and points of administrative penalties for road traffic offences

According to code of administrative offences of Republic of Lithuania (hereafter – CAO) article 35 first part (2021), the mitigating circumstances could be indicated and applied when: the perpetrator has confessed to the commission of the administrative offence provided for in this Code and sincerely repents or has helped to clarify it; the perpetrator has voluntarily made reparation or remedied the damage caused; the administrative offence was committed as a result of a very serious financial situation of the perpetrator; the administrative offence was committed as a result of mental or physical coercion; the administrative offence was committed in breach of the conditions of detention of the perpetrator of the act prohibited by law, the performance of professional duties or the performance of a task by a law-enforcement authority, the conditions of necessity, justified occupational or economic risk, or the legality of a scientific experiment; the administrative offence has been committed beyond the limits of necessary defence; the administrative offence was committed as a result of serious agitation caused by unlawful acts of the injured person; the administrative offence has been committed by a pregnant woman, provided that this circumstance had an influence on the commission of the offence; the administrative offence has been committed by a person with a level of incapacity for work of between 0 and 40 per cent or with a level of severe or moderate special needs, or by a person who has reached the age of 65; the person agrees to participate in alcoholism and drug addiction prevention, early intervention, health care, resocialisation, improvement of communication with children, change of violent behaviour or other programmes/courses. The court or an institution (or officer in charge) during the hearing of an administrative offence case may recognise other circumstances not specified above as mitigating

circumstances. It should be noticed, that in such a case, the authority (official) can take a decision on the termination of the case or on the application of other liability, taking into account the mitigating circumstances present. AOC article 566 first part indicates, the principles of presumption of innocence, equality before the law, proportionality, due process, expeditiousness, and the impossibility of aggravating a person's position on the basis of his or her own complaint (*non reformatio in peius*) shall apply to the investigation of administrative offences and to the hearing of cases involving administrative offences (2021). Before making the decision on an administrative offence, it must be established whether an administrative offence has been committed, whether the person is guilty of committing it, whether the person is liable to be held administratively responsible, whether there are any mitigating or aggravating circumstances, whether property damage has been caused and whether the amount of the damage can be determined in the administrative offence case, and any other circumstances relevant to the correct examination of the case. In the light of the circumstances of the case in question, the institution or official assessing the offence must reach its conclusion by assessing whether the offender's actions were committed with intent. The analysed case study showed, that in some cases there was no intent or purpose to commit the offence and by failing to provide the mandatory application of AOC article 108 (2021), - the subjective element of the administrative offence (i.e., guilt) which have to established, the administrative proceedings against the person have to be terminated in the absence of the constituent elements of the administrative offence.

The principle of the presumption of innocence, enshrined in the first part of the article 31of the Constitution of the Republic of Lithuania (2019) must be taken into account when deciding on a person's administrative liability, as well as first part of AOC article 566 and the principle of in *dubio pro reo*, according to which all doubts and uncertainties that cannot be eliminated are to be interpreted in favour of the person liable for prosecution. According to the opinion of the Supreme Court of Lithuania (further - SCL), the presumption of innocence in administrative offence proceedings is to be rebutted by the authority which has drawn up the administrative offence report, and the entire risk of the failure to produce evidence or the absence of the elimination of any doubt's rests with this authority (Case No. 2AT-3-1073/2019, 2019). Thus, other countries has been constantly evolving their judicial system by managing and separating decision making processes in court hearing of administrative offences in seeking value and effectiveness of the process itself "The Court has moved toward separating the responsibilities of the different branches of government in line with constitutional commands and has instructed lower courts to avoid overstepping judicial bounds in several important respects" Trump v. Hawaii, 138 S. Ct. 2392, 2018). According to Ronald A. Cass "The decisions do not show that the Court has been expanding categorically its role respecting disposition of matters central to the administrative state, but each of

these decisions on review of administrative action opens avenues that can enlarge the discretion of the Court" (2021), which could lead to more sufficient proceedings and decisions making. Therefore, D. A. Candeub points out, that "Others, looking to theories of deliberative democracy, argue that reasoned decision making legitimates administration decisions. Reason-giving fails because law reflects the preferences of legislators and administrators, not their reason" (2020), thus the decisions making process, relating to administrative penalties, have to be reviewed and adapted accordingly, so there would be not interpretations or questioning on their validation on a subject.

When the penalty imposed by the officials, for example for using the phone while driving, is contested, since the defendant claims not to have committed this offence and when there is no objective evidence proving, that the offence was committed. Therefore, if there is no objective evidence indicating, that the driver was talking and using the phone while driving, then the liability and the penalty should not be applied. From the circumstances of the case, it may be assumed, that the officer's statement, that the possession, use and control of a telephone is in itself an offence, in any case where the telephone is not used for speaking, texting or browsing, while driving, therefore cannot to be valued as objective evidence due to the absence of any video footage or witnesses, except for the officer's statement. Among other things, the psycho-emotional side of the situation should be taken into account, since being stopped by officers and being accused of an offence, in a state of stress due to the accusation, can have a negative impact on the person, who may become lost, frightened and involuntarily agree or hesitate to act, which is why it is necessary to not only mention, what is the reason of the stopping and what are the charges, but also to give time to assess the circumstances, to leave some time for reflection and processing, without putting pressuring the road users to accept the report and the charges. It should be taken into consideration the fact, that people are different individuals, some are more sensitive than others, and in a state of stress offenders may not be able to absorb the accusations, not to understand their rights to defend themselves, by demanding to provide the objective evidence, indicating that an offence was committed by his actions. The Court points out, that a person may be found guilty of an administrative offence only if sufficient prima facie evidence of the guilt of the person concerned has been gathered and there is no reasonable doubt that the person to be held liable has committed the offence. The burden cannot be shifted to the person to be held administratively liable to prove his innocence. The police officer's testimony, that he believes he saw the driver using a mobile phone are contradicted by the case evidences. The video does not show, the fact that a phone is held in the hand while driving, therefore there is not even a video of driving or of the possible commission of the offence, and the officers' opinion, that he could possibly have seen an object or gestures, that could suggest, that a phone could be used while driving, are irrelevant and unfounded. The officers made such decision on the basis of mere assumptions, speculations, or the police

officer's possible subjective experience, vision or interpretations, which do not constitute proper objective evidence for the imposition of a penalty. In current case, the officer's conclusion, that he could have seen an object in claimants' hand, could have been misled by a shadow or gestures while listening to music, or even by the appearance of holding an object in his hand other than a mobile phone. If the officer assumed, that the object held in his hand was a telephone, he should have gathered additional evidence on his own initiative to substantiate this assumption, for example by obtaining data from the mobile operator's call records and examining the data obtained in conjunction with the other evidence in the file. In order for a person to be found guilty of an administrative offence, sufficient evidence must be gathered to substantiate his or her guilt. According to AOC article 569 the evidence in an administrative offence case is any factual data gathered in accordance with the procedure laid down by law. The guilt of a person in an administrative offence case cannot be based solely on assumptions and probable subjective conclusions and on the officer's subjective beliefs or convictions, that he or she may have seen the offence. The same requirements apply in the cases of parking offences and other road offences indicated in Lithuanian legislation.

It should be noted, that the legislator has established some points in the ROR, therefore the rules designed to prevent stopped (stationary) vehicles from interfering with other vehicles and pedestrians. In cases, when a person is accused with administrative offence, due to the car parking, which is obstructing other cars passage, i.e., interfering with the traffic of cars, the fault and objective evidences have to be provided as well (Vilnius Regional Court, case No. AN2-41-365/2021, 2021). It should be noted, that the legislator has enshrined in these paragraphs the concept of stopping and parking where other road users are not obstructed and where it is not contrary to the law. In analysed case there is insufficient evidence in the case to conclude beyond reasonable doubt that the driver was at fault. In above mentioned case, the Court of first instance agreed with the conclusion of the district court, that in the presented case no evidence has been gathered, which would be sufficient to draw a definite conclusion as to fault, since no evidence has been conducted. It was also pointed out that when claimant stopped, there was already a motorbike parked closer to the wall of the house, so he had to stop next to it, which put his car closer to the middle of the yard. The photographs submitted showed, that the car was parked closer to one side of the house, thus leaving the other side open for passing, which confirms the court of first instance's conclusion that, the applicant did not and could not have been aware that he was committing an offence and did not intend to infringe the rules when he left the car parked. This conclusion is also supported by the regret expressed by the applicant that he did not have time to pull the car closer to the wall of the house, as he did not control the moment when the motorcycle left, especially as he had left his telephone number on the car front glass. According to CAO article 34 part 6 the court or

the authority (official) that has examined the administrative offence out of court, taking into account the nature of the administrative offence committed, the form and type of the offender's guilt, personality, mitigating and aggravating circumstances, and following the principles of fairness and reasonableness, may impose a lower fine than the minimum fine provided for in the sanction provided for in the legislation, or may impose a more lenient administrative penalty or an administrative measure than the one provided in the AOC, or not impose an administrative penalty or administrative measure. Thus, in order to apply the law on administrative offences correctly, it is essential to establish precisely not only the objective but also the subjective elements of an administrative offence.

According to AOC fist part of article 591 proceedings, the administrative offences may not be initiated and must be discontinued if the act committed does not have the characteristics of an administrative offence. Pursuant to article 621 of the AOC, decisions of the authorities referred to in article 615 first part of this code, in cases of administrative offences, may be appealed to the district court by the person against whom the relevant decision has been taken or by the victim (or their representatives). A systematic interpretation of this legal regulation makes it clear, that the decision not to initiate administrative offence proceedings must be formalised by a procedural decision - a resolution. Such an interpretation is in line with the principles of fairness and reasonableness and guarantees the possibility for a person to continue to defend his or her violated rights. When taking a decision in an administrative offence case, it must be established whether an administrative offence has been committed, whether the person is guilty of having committed it, whether the person is liable to be held administratively responsible, whether there are any mitigating or aggravating circumstances, whether property damage has been caused and whether the amount of such damage can be determined in the administrative offence case, and any other circumstances relevant for the correct examination of the case. In the investigation of an administrative offence and in the proceedings for an administrative offence, the burden of proof cannot be shifted to the person subject to administrative liability, nor can his or her explanations and testimony and those of other persons involved in the proceedings be obtained by means of violence, threats or other unlawful means. Pursuant to article 567, an official of an authorised authority, when investigating an administrative offence, must take all measures to investigate the circumstances of the offence fully, objectively and in the shortest possible time. In administrative offence proceedings, the court, as well as the institution/official where the case is not before a court, must take an active part in the examination of the evidence and in the determination of the circumstances relevant to the case. When deciding on an administrative offence, it must be established whether an administrative offence has been committed, whether the person is guilty of committing it, whether the person is liable to be held administratively responsible, whether there are any mitigating or aggravating

circumstances, whether property damage has been caused and whether the amount of such damage can be determined in the administrative offence case, as well as other circumstances relevant to the fair consideration of the case. In the investigation of an administrative offence and in the examination of an administrative offence cases, the burden of proof may not be shifted to the person subject to administrative liability, nor may the explanations and testimonies of the person subject to administrative liability and of other persons involved in the administrative offence proceedings be elicited by means of violence, threats or other unlawful means.

Case law has clarified, that a person can only be found guilty of an administrative offence if there is sufficient evidence, that he or she is guilty beyond reasonable doubt. Evidence which merely suggests that an offence of road traffic requirements may have been committed is not sufficient to conclude that a person is guilty and to impose an administrative penalty. A person may be found guilty when, after examination of the evidence gathered during the proceedings, there is no reasonable doubt that the person to be held liable has committed an act for which an administrative penalty is to be imposed. In cases of administrative offences, the guilt of the person held administratively liable must be proved by the authority which drew up the administrative offence report, and any uncertainty shall be resolved in favour of the person held administratively liable (Supreme Administrative Court of Lithuania, case No. AS-146-52-12, 2012). The constituent elements of an administrative offence are the totality of the objective and subjective features provided for in the law, which characterise an act as a specific administrative offence. If at least one of these elements is absent, the constituent elements of an administrative offence are absent as well. Thus, the case study research and statistical data analysis indicates, that these rules are not explained to all the subjects, therefore education of society and knowing all the regulations, could be beneficial for narrowing amount of road traffic offences and to develop the right attitudes among road users and police officers in the context of road safety in future.

3. Problems of ensuring the right of access information and claims considering decisions taken by officials

Complaints about police misconduct may also be lodged in accordance with the procedure laid down by the legislation of the Republic of Lithuania, which could be implemented according Law on the Parliament Ombudsmen of the Republic of Lithuania (further – LPO) (2021). The article 12 of the LPO states, that "The Seimas Ombudsmen shall investigate applicants' complaints about abuse by officials, bureaucracy or any other violation of human rights and freedoms in the field of public administration". In should be noted, that every subject of the law, who have been accuse of infringement of road traffic rules, have a right to file a complaint for LPO, with request to investigate his accusation details and circumstances of the penalty imposed. In one of the claims to

the LPO, the claimant requested LPO for an investigation to ascertain whether the reply to the applicant concerning the location of the inquiry has been answered properly by the institutions (Decision No. 4D-2018/1-292, 2019). The applicant has asked the Pakruojis District Police to refrain from taking any procedural action until a reply is received from the General Prosecutor's Office and the Chief Prosecutor of the Šiauliai Regional Prosecutor's Office regarding the "elimination" of the case from the Šiauliai Regional Police and Prosecutor's Office on its merits. In response to the Applicant's request, the officials informed that "during the pre-trial investigation, pre-trial investigative actions are carried out in accordance with the chosen investigative tactics and theories". LPO have assessed the content of the Applicant's request and the reply provided by the Pakruojis District police officers, stated that the officials of the Pakruojis District, when preparing the reply to the Applicant, did not follow the principle of completeness of information. Which means, that the Applicant should be provided with all the information corresponding to the content of his/her request in accordance with the legal acts, thus the provided reply to the Applicant's request is not based on objective data and norms of the legal acts, and the procedure for appeal is not explained either. By providing a reply which does not comply with the requirements of the legislation, the Pakruojis District has violated the Applicant's right to receive information from a public authority. Accordingly, the Applicant's complaint regarding the actions (inaction) of the Pakruojis District Police Officers for inadequately responding to the Applicant's request have been justified.

In another case, the LPO received a complaint about the actions (inaction) of the officers of the Jonava District Police Commissariat, who allegedly unjustifiably visited the Applicant's place of residence very often at night, and about the actions (inaction) of the officers of the Police Commissariat of Kaunas, who allegedly improperly dealt with the Applicant's appeals (Decision No. 4D-2018/1-864, 2019). Based on decisions of the Constitutional Court of the Republic of Lithuania (Ruling No. KT6-N5/2017, 2017), the Constitutional principle of proportionality is one of the elements of the Constitutional principle of the rule of law, which implies that the requirement of reasonableness, as well as the principle of proportionality, must be respected, when imposing legal restrictions and liability for infringements of the law, and the principle of proportionality must be observed. It should be noted, that the importance of the principle of proportionality is also recognised in the activities of police officers. The Police Act stipulates that in the exercise of their functions, officers must be guided by the principles of respect for human rights, humanism and proportionality (Law on Police of the Republic of Lithuania, 2021). Therefore, the implementation and enforcement of these duties, evaluation and continuous coordination of it, could be beneficial for applying changes in the current regulation implementation system of Lithuania, so all the parties could fulfil their obligations and to seek the main purpose of guarantee the safe road traffic

management process. At the same time, it should be noted, that the exercise of rights by police officers must in all cases be based on specific grounds, taking into account the circumstances relevant to each situation, as otherwise it would be likely to overstep the limits of the powers conferred on them by the legislation. During the investigation of the complaint, it was established, that the officers of Kaunas Jonava District Police Commissariat checked the fact of the Applicant's presence at home during the night almost every night. In view of the above mentioned, it must be concluded, that the part of the complaint concerning the actions (inaction) of the officers who unreasonably visited the Applicant's residence at night very frequently was justified as well. According to the established legal framework, probation is a conditional alternative to a custodial sentence imposed by the probation services, which is carried out in accordance with an individual plan for the supervision of the probationer, and which establishes the long-term objectives of the probationer's resocialisation. In the presented case, the officers of the by monitoring the Applicant's compliance with the obligation imposed by court decisions, partly performed functions identical to those of the probation service. It is important to note, that in order to ensure the behavioural control measure of visiting the probationer's home are planned, proportionate to the objective pursued and applied only when necessary. Therefore, it is recommended to coordinate the actions of subordinate authorities (if necessary, to initiate agreements and/or amendments to legislation), so that in the future probation of persons will be carried out by the probation services, and the behaviour of probationers is monitored at the frequency and by the means set out in their individual probation plans, except where it is necessary to deviate from them for objective reasons, and police officers with powers of coercion are used only when and to the extent necessary. In accordance with the established legal framework for public administration (further – LOPA) (Law on Public Administration of the Republic of Lithuania, 2021), everyone has the right to receive information from state and municipal authorities and bodies, in particular when it concerns him or her. This information shall be provided in accordance with established procedures. In the present case, this means that, in addition to the specific provisions of the law, the officials, when examining the applicant's request for information, relating to the police officers' visits to his home at night, were obliged to comply with the provisions of the law and the established Rules in their activities. According to the complaint, in officials replies, the officials did not explain why the applicant was visited intensively by police officers at night, the names of the police officers who visited were not provided, the replies were sent by e-mail, but without a secure electronic signature, and there was no indication of the procedure for appealing against those replies. The Parliament Ombudsman constituted, that these reasons, for not providing the information, do not comply with the legal grounds for refusing to provide information, as set out in the legal regulation on the provision of information. It is not clear why the names of the police officers who visited the Applicant could not

be provided in writing. In addition to the fact, that the Applicant was not provided with a clear legal basis for the refusal to provide him with the information requested. Also, he was not informed of the procedure for appealing the officers' refusal to provide the information, which is expressly provided for in the legislation and in the above-mentioned rules. The public administration entity is bound by the principle of good public administration, which implements the provision of article 5 third part of the Constitution of the Republic of Lithuania (2019). Everyone has the right to receive information from state and municipal authorities and bodies, in particular when it concerns him or her. This information shall be provided in accordance with established procedures. In present case, the officials, when examining the Applicant's request for information relating to the police officers' visits to his home at night, were obliged to comply with the provisions of the law and the established rules in their activities. The Parliament Ombudsman indicated, that these reasons for not providing the information do not comply with the legal grounds for refusing to provide information as set out in the legal regulation on the provision of information (2019). It should be taken into account, that all public bodies have to serve the people and society. The principle of responsible management (good public administration) enshrines the duty of a public administration entity to take an active role in the conduct of an administrative procedure and requires a public authority, when taking a decision, to take all possible measures to assess all relevant circumstances and to justify the decision on the basis of the facts, arguments, evidence and the law. This principle includes not only the right to a reasoned decision, but also the right to effectively defend (enforce) one's rights, and the obligation to clarify the procedure for appealing against an administrative act. An individual administrative act, which does not explain the procedure for appealing against the person of interest, does not comply with the principle of sound public administration.

In practice of the Parliament Ombudsman the complaints from individuals regarding possible violations of rights and legitimate interests of a person caused by the actions, omissions or administrative decisions of a public administration entity, a police body or an official, are dealt with by means of the procedures for investigating misconduct in office, rather than, by means of the administrative procedures. According to the case-law of the Supreme Administrative Court of Lithuania, an official inquiry is not considered as a remedy for a person's allegedly infringed rights, since its conclusions can only have legal consequences for the person being inspected, and do not affect the rights and legitimate interests of the person (the applicant, etc.). This means, that a person who has addressed the competent persons/institutions/bodies regarding the actions/inactions of police officers and whose complaint has been examined through the procedures of investigation of official misconduct, does not have the right to appeal against the response given to him/her in the manner provided for in the legislation on public administration, and thus also does not have the possibility of protecting his/her infringed rights and of exercising his/her constitutional right of

recourse to a preliminary out-of-court dispute settlement body or to a court. The Parliament Ombudsman notes, that public administration subjects (in the case in question - Kaunas and police department), when adopting administrative decisions affecting the rights and obligations of the Applicant, should have specified such data, which, in addition to additional sources of information laws, the applicant, irrespective of his/her education or age, would be fully aware, without the need to obtain any information, such as sources of information (sources of law, implementing legislation) and time, to which authority and within what time limit the Applicant may lodge an appeal. The failure to clarify the procedure for appealing against the reply provided is inconsistent with the general requirements of an individual administrative act set out in LOPA article 8, the law on administrative acts and the principle enshrined in the Constitution of the Republic of Lithuania, which indicates, that public authorities are at the service of the people, and it is liable to impede the right of a person to have recourse to an out-of-court pre-dispute settlement body or to the courts. Therefore, the LPO concludes, that the part of the complaint concerning the actions/omissions of the police officers in inadequately dealing with the Applicant's appeals is justified. It is recommended, that the general commissioner of police department should take measures to ensure, that in the future, officials of the police department and its subordinate bodies, when dealing with Applicants' requests for information, should be guided by the provisions of legal acts, and that, when dealing with individuals' complaints about the actions of a public administration entity, the provisions of the LOPA, the principle of good public administration, and their replies have to be comprehensive, based on objective data (facts) and legal provisions, and, that in all cases the procedure for appealing against those replies is indicated properly.

In another complaint against the police department, on the actions/omission of officials in the allegedly inadequate handling of his complaint, in which the Applicant submitted, that the decision of the police department regarding the actions of M.T., a specialist of the Šiauliai road police bureau's administrative and traffic accident investigation unit, allegedly aimed at delaying the investigation of the traffic accident. The officers respond stated, that the officer duly carried out the investigation and did not violate any requirements of the legislation, letter No 40-S-39185-(1.16), therefore, the Applicant claimed the respond as not appropriate. The Applicant submitted, that the statement, that the Šiauliai police officer sent certificates about the accident in Šiauliai is not true and that he has provided certificates, which clearly shows, that the police did not provide a certificate about the damage to his property. The documents and information gathered during the investigation indicated, that a traffic accident occurred in the yard of the applicant's house, which has damaged the garage door and the driveway paving. The material of the accident was assigned for examination to the specialist of the Šiauliai division M.T., who adopted Resolution No. 40NT-25150325-15, to discontinue the administrative offence proceedings, as there is no constituent

element of the administrative offence (the subject - the perpetrator) (Decision No. 4D-2017/1-443, 2018). The applicant claimed, that the specialist failed to conduct the accident throughout the investigation, ignored the photographs provided by the Applicant, which clearly showed the other person to be responsible for the accident. Afterwards, the senior specialist D.V. of the same department in Šiauliai ordered the specialist to re-examine the case, according to the order of the Šiauliai district court. However, despite the order, the specialist clearly delayed the investigation of the case and adopted a decision to discontinue the administrative offence proceedings because the time limits for the imposition of an administrative sanction had expired. Therefore, the Applicant filed a complaint about the bureaucratic delays of the officer to Šiauliai district prosecutor's office; Šiauliai district prosecutor's office; prosecutor general's office of the Republic of Lithuania; ministry of justice of the Republic of Lithuania; commissioner general of the police department of the Republic of Lithuania, but the letters to all the above-mentioned institutions were forwarded to the Chief of the Šiauliai Commissariat, who gave the same answer five times. However, according to the decision of the Ombudsman, the officials of the police department, in their written refusal to examine the circumstances of the Applicant's complaint regarding the actions (inaction) of the Šiauliai specialist in the course of the investigation of the administrative offence case, relied on the wrong legal act and the wrong legal basis for not examining the complaint, which should have been applied, therefore, the Applicant's complaint, as far as it relates to the justification of the aforementioned letter by the legislation is concerned, was recognised as justified. The analysis of the complaint application process have showed, that the right-holder has a high degree of difficulty in being properly informed, in obtaining the information requested in relation to the accident, and in safeguarding his/her rights and legitimate interests. The above indicated situation suggests, that the difficulties encountered in accessing the evidence and material of the offence, and the attitude and action (inaction) of the police officers, may be one of the identifiable problems, that leads to the increasing number of administrative penalties for road traffic offences, as they make it more difficult for an ordinary person, without legal knowledge and skills, and without financial resources, to prove their innocence and get the answers requested. The statistics indicates, that the mechanism, approach and system, which is currently in force is inadequate and needs to be improved.

Another complaint indicates the Applicant's allegation. The case of a formal reply No. 5-S-11052 from the police department, which just merely quoted the Law on Road Safety of the Republic of Lithuania, did not indicate, that an investigation had been carried out, and did not indicate the procedure for appealing or the time limits (Decision No. 4D-2018/1-1779, 2019). During the investigation of the complaint, it was noted, that no appeal procedure was indicated. The Parliament Ombudsman took the position, that when adopting a decision affecting the rights and obligations of the Applicant, a public administration entity must include in the decision such data,

from which, it would be clear to the applicant, regardless of his/her education or age, to which institution and within what time limit an appeal may be lodged, in addition to the additional sources of information and the time required for such an appeal. Failure to clarify the procedure for appealing is incompatible with the general requirements of an individual administrative act, with good public administration and with the principle enshrined in the Constitution of the Republic of Lithuania. In the presented case, it was stated, that the failure of the officials to specify the procedure for appealing has infringed the requirements laid down and the principle of good public administration. An examination of the complaints lodged and investigated regarding the actions/inactions of police officers, lead to the conclusion, that the legislation in Lithuania, which requires, that person have to be properly informed and provided with full information regarding the charges brought against them, when imposing administrative penalties for road traffic offences, is not properly implemented. The procedure of applications of administrative penalties should be improved. Therefore, other countries, such as United States, according to the American Bar Association's (ABA), seeks for administrative law and regulatory practice improvement consistently by gathering groups of qualified specialists in administrative law and as a result “identified focused, nonpartisan strategies for improvement and reassessment” of administrative law (ABA, 2017). The authorities tend to apply accusations for road offences, impose penalties and sanctions, but these actions are not properly implemented, when information is requested and objective evidence of the offence have not being provided in every case. The question still stands, whether, if all subjects of the law, who may has committed an offence, have been properly informed by sending material and objective evidence and explained thoroughly the grounds of an offence, which supposedly have been committed, the preventive aims of the road traffic regulation act, which purpose is to encourage the public not to repeat such offences, might be achieved. Not adequately explained substance, content and the circumstance, could lead to increase of infringement case, what could be assumed from the analysis of statistical indicators. There are doubts of the effectiveness of the formation of appropriate attitudes of officials, as well as the performance of their duties in imposing administrative penalties, which are not the most effective way to seek the goal of reducing the incidence of such offences in Lithuania.

4. Discussion and Conclusion

It should be concluded, that the legal legislation of Lithuania regulating road rules and road traffic safety requirements have to be improved and amended in the near future. The analysis and evaluation of statistical data, which showed significant increased numbers of road rules violations, does not comply with indicated purpose to protect the life, health and property of road users, as well as to improve transport and pedestrian traffic conditions.

Although, the increase in numbers can be justified by the development of technology, the supply and demand vehicles on the market, such numbers and growth of offences, indicates, that the existing legal framework and the fines imposed are not the most effective solution to improve the situation and should be adjusted accordingly in addition to the development of technologies and society. Thus, the question arises, if the legal regulation and its implementation does not become a mean for supplementing the state budget, which does not aim to educate the society, to improve the system of prevention of infringement, to inform individuals about possible infringements of the law, the legal and financial consequences of committing them, as well as the possibility to apply the mitigating provisions, which may be adapted in individual cases. Imposing an administrative fine, which could differ from financial penalties, by giving the person a warning, a period of correction, probation to ensure, that similar infringements do not occur in future, could be one of the solutions to be taken into consideration for improvement of legislation.

Taking into account the social and technological evolution of society, the regulation needs to be adapted and improved continuously, in the context of civil circulation. Another appropriate solution could be sought to resolve the aforementioned problems, in order to achieve an effective legal regulation for ensuring safe traffic in Lithuania, could be the usage of autonomous vehicles. Thus nerveless, the technical innovations in the field of advancing vehicles into efficient autonomous driving could be one of the solutions for narrowing down numbers of road traffic violations, therefore the question arises, would the decreases of road traffic offences will be considered as beneficial from authorities perspective, because the narrowing down these numbers, practically could lead to an significant impact on gathering payments to a state budget for indicated traffic violations. Thus the driving would be much more safer without implicated humans made mistakes, and their decision making, which could lead to crashes. This technological improvement could reduce the numbers of speed limiting violations, pedestrian crashes, drunk drivers mistakes and etc.

It could be stated, that the actions/inactions of police officers, which requires, that person have to be properly informed and provided with full information regarding the charges brought against them, when imposing administrative penalties for road traffic offences, is not properly implemented in Lithuania as well. The analysis of clams indicated, that appropriate information and clarification are not properly provided by the officers, creating a problem with ensuring respect and trust of actions of an officer in charge, which are not motivating road users to learn from their mistakes.

It should be noted, that emotional side of the situation, at the moment of accusation of made road offence, have to be taken into consideration at all the times. In cases of being stopped by officers and accused of an offence, in a state of stress, due to the accusation, can have a negative impact on the person, who may become lost, frightened and involuntarily agree or hesitate to act.

That's why it is necessary to not only mention the reason of the stopping and explaining the charges, but also to give time to assess the circumstances, to leave some time for reflection and processing, to state the legal right to defend, without putting pressure, on accused person, to accept the report and the charges, without further explanation. In a state of stress people may not be able to absorb the accusations, not understand their rights to defend themselves, or to ask to provide the objective evidence, proving, that offence was committed by their actions. Therefore, in all administrative offence cases, the court points out, that a person may be found guilty of an administrative offence, only if sufficient prima facie evidence of the guilt has been proved and there are no reasonable doubt, that the person has committed the violation. The burden cannot be shifted to the person to be held administratively liable to prove his innocence.

Therefore, the implementation and enforcement of the officers' duties, evaluation and continuous coordination of it, could be beneficial for applying changes in the current regulation legislation system of Lithuania, so all the parties could fulfil their obligations and to seek the main purpose to ensure the safe road traffic systemization. The explanation of road users rights by the police officers must be based on specific grounds, taking into account the circumstances relevant to each situation, otherwise, it would be likely the overstep of their power limits conferred on officers by legislation. Adequate familiarisation with information to individuals, promotion of prevention, the identification of nature of penalties, as well as the necessity to evaluate the various circumstances, taking into account the objective evidence, and appropriate attitudes towards road traffic offenders, would be an appropriate direction for prevention improvement, in order to attain the objectives, set out in the legislation of Lithuania, which is to ensure the health and safety of the road traffic users.

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