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Possibilities of update of driver's license training in Hungary

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In the course of the history of almost a century of motor-vehicle traffic numerous theories have been launched in regard to the reasons of accidents. The psychologists were the most active worldwide: they outlined a great number of reasons - mostly in parallel with the change of the great *theories* - and worked out multiple methods for the exact measurement of fitness and suitability. These techniques developed and improved a lot in the course of decades but they still have a key role in the driving aptitude test of a great number of countries.

The same development concerns also the methods that offered - by the ergonomic improvement of the vehicle and the update of the information technology - more and more reliable "working place" for the driver.

By the progress of knowledge and the improvement of statistical data acquisition and the evaluation of the same we came to classify the **reasons of the accidents**. Our starting point was that the reasons provoking accidents should be divided into groups according to the threefold structure of traffic system (person - vehicle - environment).

That is how the classification was established that everyone accepts up to now:

- the fault of the driver as reason of the accident,
- the fault of the vehicle participating in the traffic as reason of the accident and
- the fault in the traffic environment - mostly a road deficiency - as reason of the accident.

No efficient accident prevention can be realized without data analysis on appropriate level and standard but when searching the reasons of accidents it is indispensable to perform the motifs that exceed the extent necessary for the legal evaluation of the penal or petty offence background of the accident. Practically: we have to examine not only the fact which participant of traffic caused the accident by its criminal conduct but also which circumstances led to the traffic rule violation. Such circumstances of "secondary reason" occur, however, not

only in regard to a person. In case of accidents **due to the traffic environment** - first of all due to the imperfections of the road surface we have to explore why this imperfection occurred and who or which company did not fulfill its obligations or failed to follow the prescribed conduct. At the same time we have to analyze why the driver did not notice the imperfection of the road, could it be expected that he notice the imperfection or which contravention conduct prevented to see the irregularity of the road.

In case of accidents occurred due to the **defect of the vehicle participating in the traffic** we have to check the character of the technical defect, its predictability and the appropriate quality of manufacturing technology. Apart from that we have to take into consideration the failure of maintenance and the lack of control as secondary reasons.

The accidents occurring due to the **fault of the driver** represent the majority of accidents: this proportion fluctuates year by year between 98-99%.

In view of the basic task of prevention we have to discover also the background of human errors. It is obviously a faulty conduct consequently infringement when the driver does not stop at road crossing in spite of the red light. It would be incorrect to suppose, however, that you cannot do anything about the faulty behavior of the driver. There must be an explanation for human errors, too, but the recognition is not always simple. It does not mean naturally that the recognition of the infringement would change the issue of the responsibility in the legal sense (but it could of course influence the extent of the sentence), but only the fact that the exploration of the faulty behavior could constitute the fundamental pillar of accident prevention.

In regard to human faults we have to extend our investigation also to the circumstances occasioning of explaining the faulty conduct such as fatigue, intense emotion, lack of knowledge of the site or even the difficult recognition of the traffic order and of course the lack of knowledge of the rules.

We can treat subjective and objective reasons in another approach.

We call **objective** the circumstances occasioning a human fault which signify *generally* a danger to traffic as a circumstance independent from the human being. Such objective reasons can be the limited visibility as fog or the alteration of the adherence features of the road surface like slippery road.

Subjective reason in this classification can be the faulty behavior itself and naturally the circumstance occasioning of explaining the faulty behavior, which mean *direct* danger to traffic safety.

The exploration of human, vehicle or environmental faults must be followed by the *intended intervention* into the traffic system with the purpose to diminish the amount of faults and mistakes under the supportable level.

By the second half of the 20th century crime prevention was treated merely as an activity that can be fulfilled by police measures. They were convinced that appropriate legal regulation, the enforcement of the execution of the rules, the prospect of serious sanctions and the grave punishment of the perpetrators, all that would result the diminishment of crime. In view of the succession of fiascos the attention of researcher was led to other tools of criminology and **the tools of crime prevention outside the law** came into the limelight. You have to think about simple measures such as the prevention of the theft of mobile phones: if it is put in the neck of the child let it be hidden under the clothing. Another aspect: in the green zones of condominiums the vegetation should be limited in height of the eye so that you could survey the entire housing estate.

The prevention of situational crime is in this way nothing else, but the amount of measures aiming at the diminishment of the opportunity. These are focused on special forms of felony and signify the systematic and structural change of the immediate environment in view of rendering the commitment of crime more risky and difficult consequently diminish the benefit of the perpetrator. ¹ “*The basic philosophy of the prevention of situational crime is that the repression of crime can be achieved first of all by the reduction of crime opportunities.*”²

The majority of traffic crimes (the occasioning of accidents by all means) is a reckless act, so the analysis of expenditure-yield can only be interpreted in regard to the infringement leading to the accident. The driver accepts as a prospective yield that in case he violates deliberately the rules, he gets sooner to his destination. In the course of the realization of this behavior, however, he increases significantly the risk of occurrence of an accident, consequently the risk of impeachment and these factors are presented in form of expenses. The situational crime prevention is justified in the field of the prevention of traffic accidents as reckless criminal offences in the case if one can make it unanimous for the individual: the probability of expenditure is greater than that of the prospective yield.

The traffic safety interventions comprise fundamentally three areas:

¹ Ronald V. Clark: Situational crime prevention. In: Michael Tonry – David P. Farrington (eds): Building a safer society. Strategic approach to crime prevention. The University of Chicago Press, Chicago-London, 1995

² Irk Ferenc: Situational Crime Prevention in Housing Estates. In: *Barabás Tünde* (editor): Built environment – crime – situational crime prevention. OKRI, Budapest, 2008.

- engineering – this concerns not only the organization of traffic but also the safety of vehicles (Engineering),

- traffic control: an essential tool of the enforcement of proper behavior (Enforcement),

- education comprising not only the actual instruction but also the education to safe circulation on the road (Education)

The system named “3E” as per the English name of the intervention points is suitable not only for the treatment of the explored traffic safety problems but also for the analysis and appraisal of the interventions made.

“Education”

The most obvious way of the avoidance of accidents is to persuade the players of the road traffic to a proper and responsible conduct. They have to understand that the slightest infringement jeopardizes their own life, the life of others, their physical fitness and their respective properties.

According to the Act I. § 17 of 1988 on road traffic: *“In the interest of the increase of traffic safety, the enhancing of the culture of circulation and the interpretation of traffic rules and the proper conduct of circulation we have to make systematic the relevant education, instruction and propaganda.”*

The education is a multi-layer process. It comprises the training of drivers, when they have to learn – apart from knowledge of rules – the aptitude of applying such rules and the identification of danger situations has to be kept in view. The driving courses are preceded by the education programs of kindergarten and school as foundation to the education of children to safe circulation. The same purpose is supported by programs, competitions and camps of different frequency and purpose.

Certain drivers can enjoy increased social attention: such are members of the police, drivers of public transport vehicles, politicians, well-known personalities of the media, actors and musicians. It is indispensable that drivers behave in an exemplary way in public circulation.

Such pile of accident prevention is the activity of mass communication (PR) as it might have and should have educative purposes. This scope could comprise publicity films, placates, flyers and naturally the interpretation of the measures of both of the other piles - engineering and traffic control – towards the public.

Drivers' training

In the actual system of training drivers for “B” category the minimum duration of theoretical education is 28 hours and the practical training lasts 29 hours. In case of category “A” the theory lasts 22 hours and the practice 26 hours, while for category “C” the theory is 80 hours and the practice 29 hours.

The duration determined in the legal rules is sufficient for learning the rules but I am convinced that in the future theoretical instructions about merely legal rules should be replaced by instructions about the essential of driving, the dangerous situations, the character of human faults and the recognition of danger situations and – generally about the actual evaluation of traffic situations.

Each educational system is characterized by the fact that they are adapted to the examination requirements. If an education center starts its activity – whether on basic, medium or high degree or even a center of special professional training – they put an emphasis on the elaboration of the education program and the arrangement of the instruction program. If they come to the period of examination questions arouse such as the method of examination, the precepts and other practical issues. What would be desirable on the other hand is that – on the contrary - they should define the method of measurement of competences, the examination methods, the examination questions, and afterwards the point: what sort of instruction is needed to the obtaining of the proper competence.

At present the test-takers have to solve test-questions. Among these questions mainly the combined drawing-situation questions are acceptable for the application of the priority rules as the solution of these questions require the knowledge of the relevant rules. All the other questions inquire about mechanical knowledge of the rules.

It would be more reasonable in the course of theoretical examination to focus on a given traffic situation, traffic site, a vehicle, the road or any detail relating to a pedestrian, a vehicle or the traffic environment after presentation of a comprehensive picture and ask the candidate what he can do in the given situation, what he would do, can he start with the given vehicle and what would be the speed of the vehicle etc.

The education system should be transformed for such examination type that is to say in spite of mechanical knowledge of the rules **they should learn the competence-level application of the rules.**

The ideal solution would be of course if the theoretical examination would have references to the local environment – that could be made familiar later on. In the practice it would signify that we use photos shot on the site in the course of instruction.

Simulation

The simulation-technique is unanimously applicable in the vocational training of drivers at present. If you think of the training of pilots you'll admit that the exclusive way of presentation of dangerous situations and sources of accidents is the application of a simulator. The automobile simulator has been developed for driving schools and companies dealing with driving techniques. The equipment contains original car parts (steer, switches, hand brake and gear, pedals etc.) so that the user could obtain true experiences. The instrument panel appears on a small monitor while the view is ensured by a presentation system comprising one or several screens. The mirrors appear on the monitor in lifelike position digitally. The steer is provided with motor-driven resistance-mechanic in order to make sensible the relationship car-road. Sound-effects are intermediated by incorporated multichannel sound system. The car-simulator created essentially for the training of "B" category students is provided with professional, multiple software that helps among others in fuel-sparing driving and fundamentally in the evaluation of driving competences. The development of simulation techniques hides unbelievably large possibilities in itself. There are naturally numerous cheaper and more expensive solutions. There is a solution for instance that you install yourself in a veritable car and the traffic environment is projected on a considerably bigger screen. Such simulators are of course suitable not only for the practice of personal cars but also for the training of other vehicle categories.

The simulation cannot replace naturally real driving. Opposite allegations might lead stray the education of drivers. Simulator is only an auxiliary tool appropriate for the recognition and practice of dangerous situations and for the measurement of the reaction time etc. but for this purpose only this instrument is appropriate.

The imitation of traffic and driving is not unconditionally focused on the entire driving activity: it is possible to raise certain characteristics. Such imitation tests are rendered possible by the driving technology courses and the technical tools mounted on the vehicle – artificially reducing the adhesion between the wheel and the road surface. The driving technique courses provided with special coating, and special technologies, which incite the loss of stability of the vehicle by artificial intervention are proper – if you sit in a real vehicle - to offer the

experience of driving a vehicle having lost its stability and they can teach of course the practice of proper reactions.

The use of such technical tool is in the near future naturally a basic requirement of the training of drivers: in the first phase for the use of distinguishing signs by the persons entitled, in the second phase by drivers working in public transport and in the third phase by the professional drivers working with heavy vehicles and buses. For a longer term we have to assure that a driver, who did not make the experience of slipping even in simulated circumstances, could not come into live traffic conditions.

Driver's license for beginners

The point of the driver's license for beginners is that the person with fresh driver's license could take part in public traffic only with certain restrictions – as he does not have the routine. The beginner drivers under practice of two years cause some 10 percent of the accidents caused by drivers. If we think that beginners are more cautious we are wrong: this proportion is too high.

The theoretical dissolution of the restriction related to the beginners' driving license is the obtaining of the routine. In spite of that and on the basis of the relevant legal rules the qualification of beginner expires automatically after the lapse of two years. Consequently without the certificate of any competence whatsoever, by the lapse of time. For a long term it is indispensable that the system related to beginner driver's license be transformed into a **multiphase training**. This system would be much more efficient for the creation of the driver's conduct and attitude focusing on the safety. In my opinion beginners might obtain "final" licenses after the period of independent practice only if they definitely justify their driving competence. The interval of two years is generally convenient but the issuance of a final "driver's license" should absolutely be bound to a practical examination. Such an examination could be made simply as the instructor has clear knowledge of the fact if the trainee has **suitable routine** (vehicle handling, recognition of the situation, driving technique, recognition of danger etc.). Naturally examination requirements and the exact process of the examination are to be established in a legal rule.

At the same time you have to make clear the limitations required for a beginner to take part in the live road traffic. According to present regulations beginners are not allowed to tow a trailer and cannot bring passengers on motor-bike. These limitations are to be complemented by speed limitation on motorways and in case of category "A" by prescription of the driving

in company of a person having driving routine. Another proposal aiming at the increase of safety is that the person having a beginner's driver's license could be allowed to drive only a vehicle under a certain output. (As a matter of fact it is the accepted principle for motorbikes in case of categories 'A1' and 'A limited'). Another limitation to be considered: the obligatory use of the sign "T" for learner driver.

All suggestions require detailed study that surpasses the extent of this treatise: the establishment of the period of driver's license for beginner on one hand and in regard to the limitations and other rules to apply on the other hand. It is indispensable that this inquiry cover also international experiences since there are several states where until the age of 21 years only vehicles with a determined cylinder capacity can be driven and the "T" sign has to be borne for one year after obtaining the driver's license. In other countries there is practically no training for drivers: everyone can obtain the necessary routine at home, and after having passed a simple examination he can have a driver's license immediately. I am convinced that Hungary should follow the former practice.

Complementary training

In the actual training system the holder of a driver's license obtains the right of driving - both from theoretic knowledge and practical aptitude (for the duration of his health fitness) - forever while neither his theoretic not practical knowledge is checked. According to my proposal - similarly to the periodical system of medical fitness examination - every license holder should attend a complementary course every five to ten years. This does not necessarily involve school desk-type training. It means that he receives a message by mail or e-mail in which we call his attention to the changes of the traffic-related rules (Highway Code) and other changes occurred in driving technique, vehicle technology or in traffic conditions. After studying this material the driver will have the opportunity to pass a brief and simple examination and prove that he has updated his theoretical knowledge and still have the routine of practical driving.

I suggest all that in spite of the fact that it is generally known in professional quarters that the knowledge of the Code by drivers occasioning accidents is not worse than that of those who drive accident-free. Apart from deliberate infringement there are - though rarely - some cases of offense due to the lack of knowledge of the code. In consideration of the limited number of such accidents the necessary changes of the training should not be directed to the knowledge of rules - as mentioned above - but rather to the prevention of danger.

Prohibition of driving and rendering fit

The punishment of prohibition appears both in the criminal and in the misdemeanor statutes. The weight of the matter is proven by the fact that even the Constitutional Court has dealt with this issue and queried whether the right of circulation is a constitutional fundamental right and whether we can limit someone's participation in the traffic by forbidding him to drive. According to the Constitutional Court: "*The right of free movement and the liberty of circulation cannot be considered as a right of absolute character that cannot be limited. The legislative body establishes the rules governing road traffic on the basis of sufficient reasons - fundamentally in **the interest of the protection of the life and safety of traffic participants**. Consequently it requires from the driver to be in a **condition apt for driving, to have a valid driver's license and to respect the legal rules** regarding the order of road circulation.*" (Resolution of the Constitutional Court 3/1992. AB). According to the quoted rules the application of the sanction of the prohibition of driving is constitutional. In the Penal Code the prohibition of driving figures among the penalties and sentences: "*Any person can be prohibited from driving, who commits a crime by violating the rules of permission-bound driving or uses a motor vehicle for the committal of crimes.*"

The misdemeanor right qualifies on the other hand the prohibition of driving as a measure and not as punishment: "*The person implied in a procedure can be prohibited i.e. in certain cases stipulated by the law the person implied in the procedure has to be prohibited from driving, if he committed the misdemeanor by the violation of the rules of permission-bound driving.*" (The prohibition is obligatory in case of recurrent committal.)

By comparison of both legal provisions we can draw the following consequence:

In spite of the fact that several measures are being applied the criminal law considers the prohibition from driving as a punishment, while the misdemeanor right considers it as a measure. The fundamental question is raised whether - regardless from the regulation in force - the prohibition from driving is a legal consequence of punishment-character of measure-character. It is of punishment-character that is to say its purpose is to bring the perpetrator into a disadvantageous position and his disadvantage of imprisonment or fine be graver or it is of measure-character and its purpose is the protection of the other players of road traffic against people of deviant conduct, who jeopardize directly their corporal integrity.

I would like to start by saying that in its resolution referred to above the Constitutional Court qualifies as a measure the withdrawal of the driver's license - true not in regard to the

punishment applied by the Court but in regard to the withdrawal of the driver's license by the police on the spot: "

"The legislator wants to promote the respect of the provisions of the Highway Code also by the prospect of different sanctions of administration, misdemeanor or of punishment.

*The withdrawal of the license is **no punishment brought forward**: this **measure** is founded by the well-founded suspicion of the committal of a criminal offense and for the same reason it serves **the interest of the safety of road traffic**."*

The new Act on misdemeanor proceedings launched in 2012 reinforces - by the definition of the obligatory cases of prohibition - the character of punishment in spite of the customized measure, which adopts itself to the punishment policy of determining conservative character.

The criminal law knows also the notion of unfitness for driving and it determines the criterion of inaptitude saying that such person can be prohibited for good and all from driving.

An essential point remains, however, that the person unfit for driving should be prohibited from driving - with uncertain result - or we should rather take measures for rendering him fit for driving? According to the court practice of prohibition from driving they generally prohibit the driver, who deliberately jeopardizes others by his aggressive conduct, who occasions accident by deliberate and abusive infringement, moreover the prohibition is justified by the **lack of driving experiences and routine and such an absence of driving capacity** that restrains him in a significant way from safe driving. It follows that the prohibition from driving is a simple punishment and there is nothing about the "treatment" of the driver, on the contrary an eventual prohibition would only hinder the inexperienced driver from obtaining sufficient routine.

Is the prohibition from driving an efficient tool for the prevention of accidents? In my opinion in itself it is not. In our so-called modern world the participation in road traffic has become so much part of everyday life that the prohibition would make the life of people and families contrary to reason. Similarly to confinement it limits their freedom of movement consequently I have to point out that prohibition from driving should only be applied in cases, where the driver in question represents effectively a danger for the other players of traffic and for instance the lack of experience should not give reason to prohibition. If someone represents a danger for traffic safety - he is unfit for driving - the state has not only the task to remove this person from road traffic, but also the task to render him apt for driving. The courts very seldom apply definite prohibition from driving that is to say they consider that the person having occasioned an accident is not unfit to take part in the traffic. The purpose of punishment is mainly the prevention: this should be a basic principle when adopting the

judgment. If the road circulation is of vital interest to someone, the prohibition imposed by the court is in vain, he will keep on driving. Consequently the prohibition does not prevent accidents; on the contrary it encourages to further offences.

In my opinion the prohibition from driving is only justified in a much more limited scope than today: accidents caused by deliberate, grave infringement, drunken or dazed driving but I am definitely against withdrawal of the license in case of "simple" speeding or of occasioning accident with merely financial damage. In case of the above-mentioned limited scope on the other hand it has to be applied consistently, as an absolute definite sanction in form of an obligatory measure.

In view of the above the legal exercise of prohibition - in consideration of its purpose - is rather a sanction of the character of a measure, therefore this intuition should be adopted in criminal law, too: in place of the punishment of prohibition from driving such a measure should be legalized which suspends the driving license for a while and this punishment is accompanied by the sentence of compulsory participation in a supplementary training in another word measures are taken in order to render this person definitely fit for driving. This criminal measure would be the fitting for driving. The idea of fitting for driving has some significance beyond the apparently simple solution of creating a measure in place of criminal sentence, a measure providing - apart from the prohibition - a hygienic or psychological correction. The fitting in itself is of general character, independent from criminal law and its substance is hidden in its automatism. All the drivers having some sort of relationship with traffic deviance have to get into the system of fitting for driving. If you get drivers pass a certain screen of aptitude it will become obvious if the reason of the infringement occasioning the accident is to be found in the personality of the perpetrator and, as a further step, you can establish whether a treatment-type measure or a punitive sentence should apply.