

# The Current Questions of Police Speed Control

**MAJOR Róbert<sup>1</sup> – MÉSZÁROS Gábor<sup>2</sup>**

*Traffic safety is one of the most important issues in Hungary and in the European Union. The authors survey the current state of affairs in Hungary in this respect. They examine the measures taken towards traffic safety and speed control in the past years in Hungary also analysing changes in the number of fatal accidents.*

**Keywords:** *traffic safety, speed limit, speed control, obtainers responsibility, administrative supervisory fine*

In contemporary criminology and the fight against criminality it has been stated that a major portion of criminal cases cannot be prevented only by the means of legal regulation. For the establishment of effective crime prevention legal and extra legal instruments are needed.

The fight against criminal acts committed in traffic has to be considered a part of the fight against criminal acts on whole. In Hungary, accidents that cause serious injuries – taking longer to heal than eight days – are considered a crime. Accidents that cause injuries healing in less than eight days, or only loss in goods, are only considered a motoring offense by legislation, since these cases are judged to be less harmful to society than the previously mentioned ones.

The degree of the injury caused in the accident is though irrelevant from the aspect of prevention efforts. Therefore we need to state that it is more important to emphasize the efforts made on preventing the accidents rather than prevention of crime in the prevention of motoring deviances. It is evident that we have to aim at the decrease in severity of the accidents with the introduction of passive means of security and the enforcing of their use.

*Safety in common road traffic is an important social interest. The making of traffic rules and the prediction that they are accepted by drivers are the two basic terms in safe and uninterrupted traffic. On the other hand it is also needed that the participants in traffic should be patient and considerate to each other. (Preamble of the dictate on road traffic regulation)*

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- 1 MAJOR Róbert police colonel, National University of Public Service, Faculty of Law Enforcement, Department of Public Safety, Head of Department, Associate Professor, PhD  
Dr. MAJOR Róbert r. ezredes, PhD, tanszékvezető egyetemi docens, NKE, Rendészettudományi Kar, Közbiztonsági Tanszék  
Major.Robert@uni-nke.hu
  - 2 MÉSZÁROS Gábor police lieutenant colonel, National University of Public Service, Faculty of Law Enforcement, Department of Public Safety, assistant lecturer, PhD student  
MÉSZÁROS Gábor r. alezredes, tanársegéd, NKE, Rendészettudományi Kar, Közbiztonsági Tanszék

Despite the introduction to road traffic rules giving clear cut instructions to follow it is a fact that in the years following the millennium the number of the victims of lethal road accidents is three times more than the number of victims of crime attempted against persons every year.

Analyzing the reasons for traffic accidents it can be stated that they show a similar distribution every year. A major amount of accidents are in relation with exceeding speed limits. These cases include both absolute and relative excesses of speed limit. It is noticeable that in Hungary accident statistics consist of accidents causing personal injury without considering them to be a crime or motor offense. In a more thorough analysis it can be noticed that the exceeding of the speed limit that caused the actual accident was a relative kind of excision. (The source of the statistic data is the policeman taking action at the criminal site. Since he is serving data preceding the calculations of an expert there can be significant mistakes in the data provided.) Second the main reason for the accidents is breaking precedence rules. Breaking the rules of changing directions and turning are also reasons for accidents.<sup>3</sup>

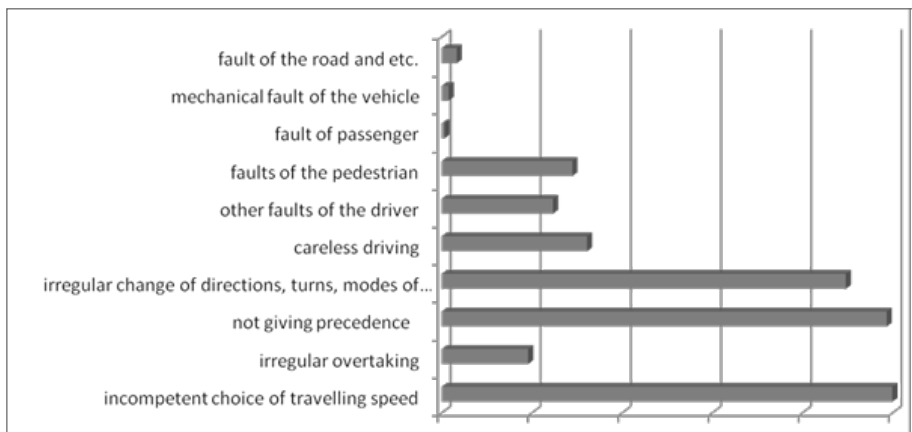


Figure 1. Reasons for accidents in Hungary

In the analysis of a given geographical unit's or a state's traffic safety one must concentrate on temporal changes on one hand and comparison of the situation of similar areas' on the other. First it is important to analyze the changes in the time passing. Second it is evident to take data from areas with different road network and car stock with a different number of inhabitants. This study only concentrates on the state of Hungary's traffic safety with a focus on the number of deaths in traffic accidents as the most preferred index number of the European Union.<sup>4</sup>

<sup>3</sup> Source: Hungarian Central Statistical Office

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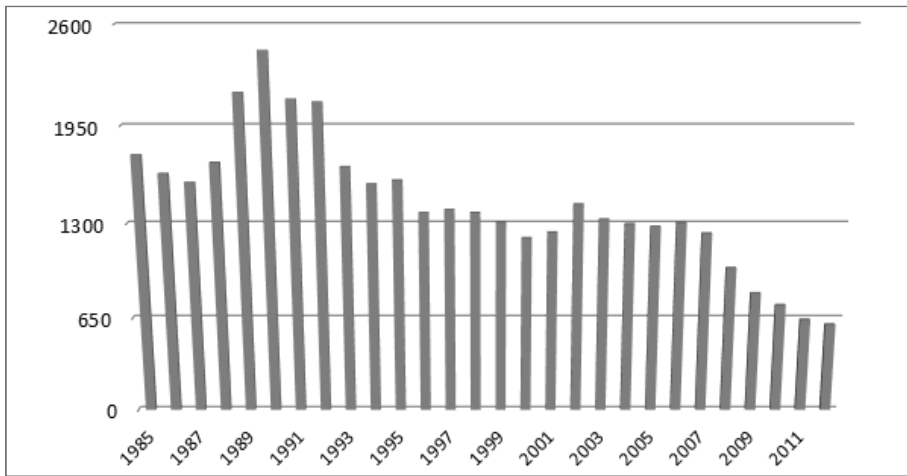


Figure 2. Mortal cases in road traffic

The dynamics of personal injuries in accidents would show total similarity with the graph showing the mortal cases in road accidents. We can state that there was a significant increase of personal injuries and mortal cases in road accidents in the early nineties in Hungary and in the other countries in the area going through the political change of the regime and the economic change of their system. In the period from 1985 to 1990 the number of personal injury accidents shows a dramatic increase of 42%. 1990 was a “black year” but it was followed by a little improvement of the situation.

Still, we cannot take 1990, as the basis of the comparison since we might overestimate the improvement of the situation in the following years. This improvement only meant the resetting of the preceding state of accidents. We must not forget though that there was a growth in the number of cars, and with this growth the decrease of the number of the accidents is an achievement. Between the period of 1990 and 2000, the number of the victims of road accidents decreased by more than 50% so we can state that there is a chance to complete the tasks given in the “White book”.

There was stagnation in the period between the end of the 1990’s to the end of 2008 which showed that there was no break-through despite the number of efforts in prevention of road accidents. In these years the prosecution of those who broke traffic rules did not happen all the time. This happened because in the contravention procedure one can only sanction the effective traffic rule offender, which is not easy to detect every time.

Those accused with breaking the speed limits often said that someone else was driving their vehicle. Devices used by the police and the records failed to identify the driver and the process of identification was very challenging. To improve the situation the first step of legislation was that instead of asking for a penalty fee the police posted a form asking for personal data to ask for the person driving the owner’s car that was accused with breaking traffic rules in a given time and place.

The one not giving data was threatened with withdrawal of the vehicle from traffic. Because of this the given jurisdiction's police were forced to warn the owner that his comments serve as testimony and he does not have to accuse himself or a relative with committing a motoring offence. It is understandable that there was a strong decrease in giving data to the minimum and the offence was left without sanction. In these terms police either had to move towards the identification of the committer or to ask legislation to create a rule that helps sanctioning the obtainer of the vehicle easily. Police turned to a second option, one that could be simple and practical, though questionable from the point of view of legislation. This objective kind of administrative fining is common in the legal system of Hungary because the different protective finings are also based on objective terms.

The illegal behaviors in administration is threatened with two basic sanctions: *“The first group is formed by the sanctions against offences. Their task is the protection of the legal system and they are based on declaration of guilt. In opposition, in the terms of international agreements and in the practice of the Hungarian Constitutional Court the guarantees valid in criminal law are expected to serve as constitutional state requirement.*

*The second group of sanctions are those administrative sanctions that are used against the offences of rules of administration by the administrative authorities in their actions of supervision.” (47/B/2008 Constitutional Court decision)*

The second sanction aims to enforce the rules of administration and not prevention through personal responsibility taking. Theoretically, an administrative *authoritative* fine can be the means of securing the traffic rules in Hungary.

It is thought possible that the decreased number of accidents and the number of their victims could have been possible with the exclusion of the number of debatable legislative actions. It could have been easier with making the sanctioning system more declarative and the detection of the committers' identity with the tools of crime detection.

In this system it could have been possible to post the declaration of fines to the vehicle's obtainer and after the warning starting the evidence gathering process.

When it comes to the introduction of the new rules in the legislation process it is highly important to review the former rules and the social features. The question is how the new rules affect the effectiveness of the preceding rules.

This analysis is inevitable; still it seems that it happened at the initiation of the law on responsibility. Since the obtainer does not get a penalty score, the obtainers' responsibility law tends to void the formerly introduced system of penalty score which had become effective by that time. For the same offence of the rules the committers can get different penalties in different procedures, depending on how the case was recorded. It is though without debate that these cases are all offences against the law.

The theory of the obtainers' responsibility is common in international practice. It is used in several countries exclusively when the committer cannot be precisely identified. Perhaps the correct codification in Hungary would not be the focusing on administrative penalty feeling, but focusing on taking a chance on holding the committer

responsible for the motoring offense. Practically penalty feeing the obtainer disburdens the authority from identifying the real committer. We have to note that the legal guarantees of the rules of the contraversion process are well worked out, and the sanctions serving repression and prevention are in the service of the police and the contraversion authority.

At the same time we have to state that in the case of privately owned vehicles they were driven by either the owner or the obtainer. The aim of legislation was to exclude the possibility of not taking responsibility on offense cases, but with the theories over legal debates being avoided. In its already quoted decision No. 47/B/2008 AB, the Constitutional Court declared that there is provision for an administrative supervisory fine in transportation circumstances, however, the cases of exemption from liability and the relationship between administrative and offence related proceedings had to be specified.

The fees introduced are extremely high. They rate from 300,000 Forints (1,000 Euros) so they represent as threat for drivers with motoring offenses. (In Hungary the average wages hardly go above 140,000 Forints which equal circa 470 Euros.) Former sanctions could only fee to the rate of 60,000 Forints, which equal 200 Euros. The maximum of the fee is rarely given, since for this, one has to travel at the speed of more than 125 km/h rather than 50 km/h in inhabited areas.

The average of the given penalty fees are less than 40,000 Forints which is less than 130 Euros. It can be stated that it is not the quantity of the fee but its' inevitability that hinders drivers from offending motoring rules on purpose. The cases of motoring offences rooting in carelessness decrease too, since drivers travel with greater awareness since they consider that they are possibly supervised and they can be made to take responsibility at any time.

I also have to state giving a penalty fee has to be based on concrete and reliable evidence. This is the reason that the use of the tool recording the offence is controlled by legal guarantees and technical requirements.

<b>The degree of the overstepping the highest permitted speed limit in km/h</b>	<b>Amount of penalty fee in Forints</b>	<b>Amount of penalty fee in Euros</b>
<i>Speed up to 50 km/h on roads in inhabited areas</i>		
a) over 15 km/h to 25 km/h	a) 30 000	a) 100
b) over 25 km/h to 35 km/h	b) 45 000	b) 150
c) over 35 km/h to 45 km/h	c) 60 000	c) 200
d) over 45 km/h to 55 km/h	d) 90 000	d) 300
e) over 55 km/h to 65 km/h	e) 130 000	e) 430
f) over 65 km/h to 75 km/h	f) 200 000	f) 660
g) over 75 km/h	g) 300 000	g) 1000
<i>Speed over 50 km/h up to 100 km/h- on roads out of inhabited area</i>		
a) over 15 km/h to 30 km/h	a) 30 000	a) 100
b) over 30 km/h to 45 km/h	b) 45 000	b) 150
c) over 45 km/h to 60 km/h	c) 60 000	c) 200
d) over 60 km/h to 75 km/h	d) 90 000	d) 300
e) over 75 km/h to 90 km/h	e) 130 000	e) 430
f) over 90 km/h to 105 km/h	f) 200 000	f) 660
g) over 105 km/h	g) 300 000	g) 1000
<i>Speed over 100 km/h – on motorways</i>		
a) over 20 km/h to 35 km/h	a) 30 000	a) 100
b) over 35 km/h to 50 km/h	b) 45 000	b) 150
c) over 50 km/h to 65 km/h	c) 60 000	c) 200
d) over 65 km/h to 80 km/h	d) 90 000	d) 300
e) over 80 km/h to 95 km/h	e) 130 000	e) 430
f) over 95 km/h to 110 km/h	f) 200 000	f) 660
g) over 110 km/h	g) 300 000	g) 1000

According to the law the obtainer is relieved from the fee if the vehicle is illegally out of his ownership and he can prove that he started an official process before the offence was recorded. The owner is also relieved from the fee if he lent the vehicle to another driver and the other driver proves this with valid evidence of identity or in the case of vehicles that use travelling warrants the lending is proved by a valid way-bill.

In the case of speed control the effectiveness of visible and hidden control has to be considered. Visible control is effective without doubt, though with the means of hidden control it is possible to re-form the attitude towards traffic rules of those who tended to break then on purpose. Using the two tactics in a parallel way is not excluded. The tactic of “warn first, prosecute second” is preferred. This means that a led signal is used

to show the actual speed limit to the driver. Often a device is used to show the driver's actual travelling speed. The light signals are followed by hidden control with a strict penalty on those who do not respect the speed limits in spite of the warning.

The most important tactical element of speed controlling is the choice of the location of control. The zone exchange research of accidents show those zone exchange points in traffic clearly where the offense of traffic rules often cause accidents. In the same time analysis of the reason of accidents also shows if the number of accidents were significantly caused by the same type of offense. Those zone exchange points, signified by breaking speed limits, need police speed control evidently. We have to emphasize that from this logic follows that these locations justify speed control with the aim of accident prevention.

We again have to state that the accidents are mostly caused by the relative breaking of speed limits and not by the absolute overrating of the speed limits, which is not a significant reason for the accidents. Technical tools that are used in controlling speed are only capable of selecting absolute overrating of speed limits to provide evidence for feeling. It is important to reason for the importance of speed control in the cases of absolute overrating of speed limits.

We are confirmed that the legal and signaled enforcement of travelling speed limit is going to reduce the number of relative breaking of the speed limits. It is a fact that drivers reduce their speed instinctually in extreme road circumstances. The measure of speed decreased is though important. If drivers could be forced to keep the speed limits the number of those relatively crossing the speed limits will decrease parallel with the number of accidents they cause.

Traffic control is part of awareness influence and education of safe travelling. Speed control with the help of in debatable evidence given by the technical tools can be a great device of awareness rising. For the effectiveness it is evident that the committer has to be identified to take the responsibility.

The control of speed can have even greater effect, since it is not only part of awareness influence but it emphasizes the importance of the other traffic rules.

From the introduction of the obtainers' responsibility the number of mortal accidents shows significant decline. When it comes to thorough analysis of accident data it can be stated that in the accidents there is no structural change, the rate for the reasons of the accidents did not change. In search for the reason of dramatic decline in the number of accidents and victims of accidents we cannot find other phenomenon but the introduction of obtainers' responsibility that changed these numbers. The minimal decline in the number of vehicles and the growth in the price of petrol cannot serve as reasons for the improvement in the accident statistics. No doubt, the decline is the benefit of the obtainer's responsibility act and the tendency shall remain until the police techniques of control and the aim of legislation develops continuously.

It is also proved that forcing the drivers to keep speed limits the inclination to other legal offences are forced back so it can serve as the basis of well-organized travelling speed control and foundation of traffic safety.

In year 2013, there was a change in the number of the mortal accidents. The declining tendency was fractioned. (In year 2012, 605, in 2013, 591, and in 2014, 626 persons died in road accidents.)

In the examination of the reasons we find that this is caused by the declining competence of Police's speed control. Equipment used earlier effectively in speed control were taken out of service in the years mentioned. That action was not sudden so Police urged the introduction of a new complex speed control system also able to detect other traffic offences as well.

In the venture Police inserted 525 new control points, out of which 365 were fixed and 160 mobile.

We expect the improvement of the data from these projects.

## BIBLIOGRAPHY

IRK Ferenc: *Közlekedésbiztonságunk jelene és jövője*, Belügyi Szemle, 11(2012), 5–14.

MAJOR Róbert: *A közlekedésrendészet = Értekezések a rendészetről*, ed. KORINEK László, Budapest, Nemzeti Közszerológiai Egyetem, 2014, 227–252.

MAJOR Róbert, MÉSZÁROS Gábor: *Forgalomellenőrzés*, Budapest, Nemzeti Közszerológiai Egyetem, 2015.

## ABSZTRAKT

### **A rendőrségi sebességellenőrzés aktuális kérdései**

MAJOR Róbert – MÉSZÁROS Gábor

A közlekedés biztonsága az egyik legfontosabb kérdéssé vált Magyarországon és az Európai Unióban. A szerzők áttekintik a téma jelenlegi helyzetét Magyarországon. Vizsgálják az elmúlt években a baleset-megelőzés és a sebesség-ellenőrzés területén tett intézkedéseket, és összevetik a baleseti halálosok számában bekövetkezett változásokat és a sebesség-ellenőrzésben megtett intézkedéseket.

**Kulcsszavak:** közlekedés biztonság, sebességhatár, sebesség-ellenőrzés, üzembentartói felelősség, közigazgatási bírság