

Sohjoa Baltic

WP 2.3

Core findings of the Joint Legal Implementation Roadmap for Finland and Germany



SOHJOA BALTIC



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Areas of law

TRAFI and IKEM analysed the most relevant areas of law for the implementation of automated minibuses in urban public transport:

- Car registration law
- Passenger transportation law
- Personal legal requirements for the vehicle operator
- Data protection law
- Liability law
- Criminal law

Comparative law analysis I – Car registration law

Germany

Finland

- In both countries a **regular car registration cannot be issued** due to the non-compliance of automated driverless vehicles with international and national law.
- E.g. technical regulations require vehicles to have a steering wheel and mechanical breaks, items an automated vehicle usually does not have

• Testing on public roads is possible with a **special permit**

• Testing on public roads is possible with a **test plate certificate**

- Testing is only possible, if the „**safe and smooth flow of traffic**“ can be ensured.
- Regarding automated vehicles this means a **paradigm shift** in the approval procedure.
- The future fulfillment of all road traffic regulations, that address the driver, has to be proven on a technical level before the approval of the vehicle.
- This may be achieved through geographical and time limits as well as the presence of a human vehicle operator.

• The vehicle operator must be **onboard** in order to be legally recognized as the „driver“

• The vehicle operator can be placed **outside** the vehicle

Comparative law analysis II – Passenger transportation law

Germany

- Automated minibuses in urban public transport need a **passenger transportation permit**

- Very **strict criteria** apply

- Commercial passenger transportation is **strictly limited to specific modes of transport** such as line-based traffic, taxis or rental cars with chauffeurs

- For automated, on-demand minibuses in SOHJOA Baltic the passenger transportation permit could only be issued following **special permission procedures**

Finland

- Rather **liberal criteria** apply

- Commercial passenger transportation is only subject to **general approval criteria** such as the **reliability and financial trustworthiness of the provider**

- There should not be any major obstacles for receiving the necessary permit

Comparative law analysis III – Personal legal requirements for the vehicle operator

Germany

- The human vehicle operator needs a regular **driving license** that matches the type of vehicle that is operated

- An **additional license for passenger transport** is obligatory for the vehicle operator (unless the vehicle operator has a D or D1 bus driving license)

- A **special safety training** for the vehicle operator is recommended in order to receive a special permit (Germany)/ a test plate certificate (Finland), but not prescribed by law

Finland

- **No additional license for passenger transportation** is necessary

Comparative law analysis IV – Data protection law

Germany

Finland

- Since 25 May 2018, the **General Data Protection Regulation (GDPR)** is the central EU regulation on data protection.
- In legal contexts, **personal data** refers to information relating to an identified or identifiable natural person.
- Processing of personal data is lawful if, for example, the data subject has given **consent** to the processing, or if processing is necessary for the performance of a task carried out in the **public interest**.
- **Cameras** used to facilitate the safe movement of the automated vehicle **may capture faces of individual persons, either outside or inside the vehicle**. Such recordings should only store movement information that makes personal identification impossible.
- If **software applications** are used, as in a booking system, **passengers must give their consent** to the processing of any personal data.

Comparative law analysis V – Liability law

Germany

Finland

- There are **no specific regulations** for automated vehicles in place
- Possible defendants in case of accidents are the **holder** of the vehicle and its **manufacturer** and possibly system or component suppliers
- As most accidents in automated driving will probably be caused by technical failures of the vehicles, **product liability law** will play a pivotal role in liability issues. In cases of **bad maintenance** the holder might be liable
- A **liability insurance** is obligatory for every holder of an automated vehicle
- The liability insurer can make a **direct claim against the manufacturer**, if the damage is based on a failure of the automated driving system

Comparative law analysis VI – Criminal law

Germany

Finland

- **Criminal liability** in case of accidents may be ascribed to the **vehicle owner**, the **manufacturer** and his employees, the **provider of the necessary data infrastructure**, the **officials** at the competent authority for vehicle permits (Germany) and test plate certificates (Finland) and the **vehicle operator** (if a third party outside the vehicle is harmed).
- Any claim would most likely allege **negligent behavior** (e.g., negligent homicide, negligent physical injury) rather than intentional conduct.
- Most allegations will probably be linked to **deficiencies in the vehicle's technology** (soft- or hardware), **insufficient maintenance** or an **insufficient safety briefing** of the vehicle operator.

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