

SOHJOA

**BALTIC**

LEGAL IMPLEMENTATION ROADMAP

FOR POLAND



SOHJOA BALTIC



EUROPEAN  
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EUROPEAN UNION

# SOHJOA BAL TIC

## Legal Implementation Roadmap for Poland

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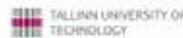
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# Legal Implementation Roadmap for Poland

The Interreg Baltic Sea Programme EU-funded Project “Sohjoa Baltic” researches, promotes and pilots automated driverless electric minibuses as part of the public transport chain especially for first/last mile connectivity.

In this roadmap an overview of the legal challenges that arise in Poland when implementing automated buses as a part of public transport in urban areas will be given. Each section summarizes the current legal situation in Poland.

The areas of law that are being examined in this part are car registration law (I.), passenger transportation law (II.), personal legal requirements for the driver (III.) that is regulations belonging to the branch of administrative law, as well as data protection law (IV.), liability law (V.) and criminal law (VI.).

There is a legal inventory in the annex showing all of the relevant regulations in Poland.

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# I CAR REGISTRATION LAW

## 1. Necessity and legal basis for the car registration

### THE LEGAL SITUATION IN POLAND

- Traffic approval under the u.p.r.d. refers generally to public roads, but also to residential zones and traffic zones (so including certain internal roads) (Article 1 section 1 item 1 and 2 of the u.p.r.d.);
- Vehicles (buses as well) may be traffic approved provided they have been registered or temporarily registered, and conform to technical conditions stipulated in Article 66 of the u.p.r.d. (Article 71 section 1 and 2 of the u.p.r.d.);
- Registration is not required for, e.g. low speed vehicle (structure of which limits the speed up to 25 km/h);
- Registering of a vehicle is settled by the Head of a given District at the vehicle owner request. Attachments to this request constitute i.a.: a vehicle ownership confirmation or a document entrusting the vehicle by a foreign natural person or a legal person to a Polish entity, vehicle license and EC conformity certificate/ individual vehicle approval/ decision on acknowledgment of the individual vehicle approval/ EC individual vehicle approval - if required (Article 72 section 1 of the u.p.r.d.);
- Registration authority also verifies entering into civil liability insurance contracts by motor vehicles owners;
- Scope of requirements regarding certification/individual approval of a vehicle is established in the ordinances: r.h.t.p.s. and r.d.j.p., which refer, among others, to the Directive 2007/46/EC, Regulation (EC) No 661/2009 and particular UNECE rules. In case of innovative constructions or technologies (Article 70i of the u.p.r.d.), it is possible to obtain a special consent from the European Commission to issue the EC type-approval certificate. Homologation/individual approval is performed by a national authority – The Head of Transport Technical Supervision Office.

For an explanation of the acronyms, please refer to the legal inventory in the annex of this roadmap.

# I CAR REGISTRATION LAW

## 2. Non-compliance with the applicable regulations

### THE LEGAL SITUATION IN POLAND

- Vehicles driving autonomously are very contrary to both, Polish, European and international regulations:
  - o Poland ratified the Vienna Convention on Road Traffic, which determines in Article 8 that every moving vehicle or set of vehicles shall have a driver who is obliged to control the vehicle at all times;
    - o UNECE Regulation no. 79 regarding steering equipment, binding in all EU states, enables certification only of such a system where a driver is in primary control of the vehicle and when the maximal speed is limited up to 12 km/h in an automatic mode;
    - o Polish law does not indicate directly that every vehicle must have a driver, however, in various provisions it establishes a driver's obligations (who needs to be a physical person).
- Apart from the impossibility to certify and register, another barrier for traffic of automated vehicles can be regulations in the field of obligations of the driver and vehicles technical conditions:
  - o In accordance with Polish regulations a driver could not “stop driving” and rely on the automated system solely. On the contrary - the driver must not take actions which could prevent him/her from personally driving the vehicle (taking control when necessary);
  - o Technical conditions require that vehicle needs to be equipped with a strong steering control system enabling a driver to quick and unfaible change of the vehicle motion direction. It also must be equipped with adjusted mirrors, seat belts (§ 11 section 1 of the r.w.t.p.) or brakes enabling a driver to brake (§ 14 section 1 of the r.w.t.p.).
- Presence of a vehicle operator (steward), able to take control over a vehicle any time or to switch off the automated system, is necessary and directly required in case of automated vehicle tests. If one assumed that the vehicle operator is a driver and holds all obligations of the driver, traffic of such a vehicle could be considered accordant with Polish regulations. However, it does not solve the lack of possibility to register a vehicle non-conforming with requirements provided in the UNECE Regulation no. 79.

### POLICY RECOMMENDATIONS

1. Domestic law:
  - Adjustment of the provisions concerning a driver's obligations and technical prerequisites to the automated vehicles specificity (the application range exemption or modification, implementation of new provisions)
2. International Law:
  - Other amendments to the Vienna Convention on the Road Traffic and amendment of relevant UNECE regulations (in particular, the Regulation no. 79 within the scope of the automated steering equipments approval extension).

# I CAR REGISTRATION LAW

## 3. Issuing a special permit

### THE LEGAL SITUATION IN POLAND

- Automated vehicle tests in traffic on public roads can take place provided that safety requirements are met and a special permit has been granted - the permit does not imply a consent to register such a vehicle; it is simply an agreement to conduct tests on special basis (Article 65k-65n of the u.p.r.d.);
  - o An authority managing traffic on a road issues the permit at the test organizer's written request;
  - o The tests organizer's civil liability document, along with an evidence of paying the insurance contribution shall be attached to the permit application. The insurance is of conditional nature as it depends on receiving the permit, as well as (since July 2019) - a copy of the decision on the professional vehicle registration;
  - o A decision on the professional vehicle registration can be acquired only by certain entities (especially entrepreneurs dealing with tests of new vehicles and R&D units of manufacturers), and test drives can take place provided that they only concern vehicles not registered previously – neither in Poland nor abroad;
  - o A road manager consent (managing entity/authority) and lack of objection raised by an owner of a real estate located alongside a planned test route, as well as compliance with additional statutory requirements are compulsory to obtain the permit.

### POLICY RECOMMENDATIONS

- In order to enable automated vehicle tests, corresponding to the legal regulations, it would be necessary to amend legal obligations for obtaining a permit for automated vehicle tests, particularly in terms of a requirement of holding a decision on the professional vehicle registration (it is advisable to allow for a temporary registration addressed to automated vehicles, or any other, involving registration abroad), or to amend the legal definition of professional vehicle registration (to implement an exception for automated vehicles);
- It would be necessary to specify a possibility to distinguish between functions of a test works organizer (e.g. an organizational city unit) and an operator (e.g. a vehicle manufacturer). Also, it would be recommended to broaden the range of entities authorized to acquire a decision on professional registration, by units of a territorial self-government (and their subordinated units).
- It would be advisable to extend the definition of an automated vehicle to low-speed vehicles and to allow the possibility of testing them without registration.

# II PASSENGER TRANSPORTATION LAW

## 1. Need for a passenger transportation permit

### THE LEGAL SITUATION IN POLAND

- The issue of passenger transport taking place at the communal level in Poland is governed by a several legal acts, among others: the k.c. (Article 776-778 – regulations concerning the passenger transport), u.p.p., u.t.d., u.p.t.z. and several others.
- To carry out passenger transport in Poland, it is required to obtain a permit to perform the road carrier profession (Article 5 section 1 of the u.t.d.) or license for transport by cars/taxis (Article 5b section 1 of the u.t.d.). Besides this professional permit, in order to conduct bus carriages in public transport, a contract with the organizer or a permit for regular carriages (see below) is required as well;
- Public transport services in accordance with the u.p.t.z. are classified into:
  - o public utility transportation (organized usually by public authorities; organizers conclude contracts with operators handling particular routes);
  - o commercial transportation (performed by private entities by virtue of special permit, and probably, since 2019 under notification approved).
- Moreover, regular special carriages are also distinguished (e.g. transport of students to schools/universities) which require the same permit acquisition, as well. Carriages other than regular, i.e.: shuttle (back and forth) and occasional ones involve special permit only when they go beyond the European Economic Area.
- Exemptions:
  - o non-profit road passenger transport;
  - o carriages organized by persons who do not pursue the business activity;
  - o carriages settled by medical rescue and sanitary transport services;
  - o for touristic goals (the u.p.t.z. is not applied).

## II PASSENGER TRANSPORTATION LAW

### 2. Requirements for obtaining the permit

#### THE LEGAL SITUATION IN POLAND

- The contract for provision of services within the public transport sets out obligatorily, i.a., requirements for means of transport, along with a demand for modern technical solutions implementation.
- However, provisions of the u.t.d. stipulate that regular carriages within the domestic public transport can be executed only by buses, meeting technical requirements depending on type of transport – inter alia, those established in the r.w.t.p. (other requirements are, for instance: a time schedule publicly available at stops and stations on the way, letting passengers in and out, only at the stops set out in a time schedule, or terms & conditions of carriages and a price list available on a bus);
- Further, in case of the permit/approved notification on commercial transportation, regulations impose on carriers an obligation of providing the transport organizer with information on means of transport to be used for performing the carriages (e.g. automated buses?). It is also necessary to establish stops or stations used on a suggested route;
- Both, in case of commercial transport services and in framework of public utility transport services there comes a prerequisite that an entrepreneur rendering the passenger transport services require authorization for carrying out the business activity in this field (Article 4, section 1, item 8 and 11 u.t.d.). This obligation means for the entrepreneur a necessity of receiving a permit to perform the road carrier profession, established in Article 5 u.t.d. Requirements for the permit acquisition are defined generally in Regulation (EC) No. 1071/2009.

# III PERSONAL LEGAL REQUIREMENTS FOR THE VEHICLE OPERATOR

## 1. Driving license

### THE LEGAL SITUATION IN POLAND

- A driver can be a person, who, i.a: holds a relevant document confirming his/her right to drive a vehicle - predominantly, the driving license of a relevant category;
- In order to drive a bus designed to transport up to 17 persons including a driver, length of which does not exceed 8 m (irrespective of weight), one needs a D1 driving license.

## 2. Transport of passengers

### THE LEGAL SITUATION IN POLAND

- For needs of the road transport - and passenger transport- by an entrepreneur or any other entity, a driver may be hired, who is at his/her required age (in case of driving a bus 21 or 23 years old), he/she holds proper authorization to drive a vehicle (a relevant category of driving license), he/she is in proper health and mental condition enabling him/her to work at the driver position, he/she received qualification (proved by a professional qualification certificate) and graduated from a periodic training (every 5 years starting from qualifications acquisition date) - Article 39a section 1 u.t.d;
- Requirements referring to the age, qualification acquisition and periodic training are not applicable, e.g., in case of a driver of a vehicle, structure of which limits its speed up to 45 km/h or a vehicle subject to road tests for technical development needs to be conducted by manufactures, R&D units or higher education institutions - Article 39a section 3 u.t.d.

# III PERSONAL LEGAL REQUIREMENTS FOR THE VEHICLE OPERATOR

## 3. Standards for the driving behavior of the vehicle operator

### THE LEGAL SITUATION IN POLAND

- An automated vehicle operator (steward), who needs to be present in a vehicle at a place intended for a driver, must be able to control the vehicle at any time, in particular, in case of a hazard for traffic safety - Article 65n, section 1, item 2 of the u.p.r.d;
- The automated vehicle operator (steward) is obliged to follow all regulations referring to driver obligations (e.g. those related with “staying alert” about situation on a road and remaining careful).

## 4. Special safety training

### THE LEGAL SITUATION IN POLAND

- Polish law does not provide for any (additional in relation to casual drivers) training requirements for the automated vehicle operators.

# IV DATA PROTECTION LAW

## 1. Regulatory framework

### THE LEGAL SITUATION IN POLAND

- On 25 May 2018 personal data protection regulations, resulting from “General Data Protection Regulation”, abbreviated as GDPR, were introduced in all European Union Member States.

## 2. Personal Data and compliance with regulations on processing

### THE LEGAL SITUATION IN POLAND

- Personal data – in accordance with the regulation, any data allowing for identification or through which it is possible to identify a given natural person.
- Personal data processing – is allowed when a given person explicitly agrees to it or it is necessary to complete a task realised in public interest.
- Camera monitoring used for an automated vehicle movement may record faces of persons inside and outside the vehicle, only for the purposes of gathering information about traffic, in such a manner it is impossible to identify the person,
- In case of a proper booking software implementation – the user must agree to personal data processing.

# V LIABILITY LAW

## 1. Legal liability

### THE LEGAL SITUATION IN POLAND

- Currently in Poland there are no detailed regulations on damages caused by an automated vehicle (without a driver).
- The damaged party could only use general provisions of the Polish Civil Code, i.e. claim liability on the grounds of the Civil Code general provisions, not only against a vehicle owner, dangerous item or its manufacturer.
- Poland has implemented the Directive 85/374/EEC provisions regarding approximation of regulatory, executive and administrative provisions of Member States regarding liability for defective products.
- The regulations on rules in local and international law: promoting amendments to the traffic law in order to specify responsibility for vehicles without a driver clearly, as well as unify the rules aforesaid.

## 2. Insurance

### THE LEGAL SITUATION IN POLAND

- Poland has regulations imposing a responsibility of civil liability insurance for every motor vehicle on the roads. The vehicle owner driving on public roads is obliged to own civil liability insurance.
- Poland does not have any specific regulations in term of permitting automated vehicles to participate in traffic, covering an obligatory insurance within this field.
- However, Poland has implemented an obligation to apply a proper insurance for research works on automated cars. Automated testing of the vehicle utilizes the obligatory civil liability insurance.

### INSURANCE RULES RECOMMENDATIONS:

- Promotion of proper insurance, particularly in case of driverless vehicles.
- Implementation of an additional obligatory insurance both for the owner and the manufacturer.

# VI CRIMINAL LAW

## THE LEGAL SITUATION IN POLAND

In conformance with the Polish Criminal Code (k.k.), the potential addressee of criminal responsibility in case of a non-automated vehicle accident can be:

- the vehicle manufacturer,
- entity servicing the vehicle (repairing the vehicle),
- the vehicle owner,
- the vehicle driver,

while the accusation is based mostly on negligence, not on a purposeful action.

Polish criminal system lacks specialist regulations in the field of criminal responsibility for an accident brought about by an automated vehicle. Under criminal provisions on causing hazard to road traffic, causing an immediate danger in road traffic and the dispatcher liability for allowing an unfit vehicle to traffic, we can identify only a potential range of people responsible.



ROADMAP FOR THE IMPLEMENTATION OF  
AUTOMATED BUSES IN POLAND

# Roadmap for the implementation of automated buses in Poland

## I CAR REGISTRATION LAW

### 1. Necessity and legal basis for the car registration

Under Article 71 section 1 and 2 of the u.p.r.d., vehicles (including buses) may be traffic approved provided they have been registered or temporarily registered, and they comply with technical conditions settled in Article 66 of the u.p.r.d. and they have legalized vehicle registration plates (and potentially - a control stick). A document confirming the traffic approval is a vehicle registration book or a temporary permit. The term "traffic approval" shall be considered in the light of the Article 1, section 1 (item 1 and 2) and section 2 of the u.p.r.d. Therefore, it relates not only to traffic on public roads but also in residential and traffic zones (involving certain internal roads, as well). Along with the above-enumerated places, the provisions of law are applied to a very narrow extent (necessary to avoid hazard for people or arising from road signs and traffic lights). Nevertheless, taking traffic offense regulations into account, one should claim that in case of other places the vehicle registration is not required.

Low speed vehicle that is a motor vehicle, structure of which limits the speed up to 25 km/h may be approved without a need for registering it (however, it is necessary to fulfill technical requirements laid down in Article 66 of the u.p.r.d.). A vehicle registered abroad may be traffic approved if it complies with obligatory technical prerequisites and it has registration plates with the registration numbers comprising of Latin alphabet letters and Arabic numerals, and a driver holds a registration confirmation. In case the document in question does not prove a right to

use the vehicle by the driver, such a person additionally needs to hold a document certifying this right (Article 71, section 5 and 5a of the u.p.r.d.)

Registering of a vehicle, at the vehicle owner request, is performed by a Head of a given District, competent for the residence address or registered office of a vehicle owner. Appendices to the application are set out in Article 72 of the u.p.r.d. These are, i.a.:

- 1) a vehicle ownership confirmation or a document entrusting the vehicle by a foreign natural person or a legal person to a Polish entity;
- 2) vehicle license (if it has been issued);
- 3) EC conformity certificate / individual vehicle approval / decision on the individual vehicle approval acknowledgment / EC individual vehicle approval (if required);
- 4) a certificate of positive vehicle technical inspection (if needed - in case of new vehicles such a situation occurs, e.g. when there is no requirement to submit any of the documents enumerated in point 3);
- 5) vehicle registration book (if the vehicle has already been registered).

Moreover, due to Article 84, section 2 (1), letter d of the u.u.o., the authority entitled to register vehicles is also obliged to check fulfillment of the obligation to enter into a contract for civil liability insurance by motor vehicles owners.

Because of this report main goal, one should pay special attention to documents referred to above in point 3. They confirm satisfying relevant obligations or technical requirements for: specified type of a vehicle (certification/approval) or individually identified vehicle (individual approval) before launching it into Polish market (i.e. payable or free vehicle handover to a user in Poland).

Every type of a new or exempted vehicle (except for low speed vehicles) ought to be certified or approved. In case of certification or approval performed by a relevant authority of any other EU country, it does not have to be repeated in Poland – as it is acknowledged. Scopes of technical requirements for certification and equivalent procedures are defined in proper ordinances, engaging the r.h.t.p.s. (for a type-approval certificate) and r.d.j.p. (for individual approval).

In this matter, § 3 r.h.t.p.s. refers to requirements indicated in part I, with exemption of the supplement 2, and part II of the appendix IV to the Directive 2007/46/EC. Nevertheless, in appendices to the r.d.j.p. there is a list of legal acts applied to the individual approval procedure and their extent. Among these acts, predominantly, there is the Regulation (EC) 661/2009 and particular terms and conditions of UNECE rules.

If equipment or vehicle parts include innovative structural solutions or technologies which fail to conform to requirements laid down in the vehicle type-approval certification, it is possible to obtain a special consent from the European Commission to issue the EC type-approval certificate (by the time the aforementioned consent has been issued, it is possible to acquire a time-limited type-approval for 10 months). In order to receive it, a manufacturer is obliged to attach additional descriptions and justifications, entailing: description of tests conducted and their results proving that the level of environment protection and safety correspond to at least levels specified in regulations concerning certification - Article 70i of the u.p.r.d.

A Head of the Transport Technical Supervision Office (national authority being a legal person with its registered office in Warsaw, subordinated to the Minister for Transport, hereinafter referred to as: TDT - Polish name: "Transportowy Dozór Techniczny") is an aut-

hority responsible for certification or equivalent procedures.

Technical requirements necessary to be met by vehicles specified in ordinance issued pursuant to the u.p.r.d. - r.w.t.p. The act in question provides, among others, dimensions, mass and axis pressure of particular types of vehicles, as well as their, necessary equipment. Furthermore, Article 67, section 1 of the u.p.r.d. should be considered, as well. It states that the Minister for Transport may, in individual cases, approve a deviation from technical terms to be met by vehicles.

## 2. Non-compliance with the applicable regulations

Vehicles driving autonomously are very contrary to both, Polish, European and international regulations. First of all, Poland has ratified the Vienna Convention on Road Traffic of 1968. The Convention, in Article 8 stipulates that every moving vehicle or set of vehicles shall have a driver obliged to control the vehicle at all times. An amendment to the Convention, which became effective in 2016, implemented a presumption of systems, affecting driving vehicles, compliance, with aforementioned prerequisites, for instance when such systems can be controlled or switched off by the driver. It is a step enabling automation, however, it clearly exempts vehicles without a driver from the traffic. More restrictive requirements, binding in all EU countries, arise from the UNECE Regulation No 79 concerning steering equipment. It enables only certification of such equipment allowing the driver for controlling the vehicle constantly and when the maximal speed is limited up to 12 km/h in an automatic mode (5.1.6). When it comes to domestic regulations, the u.p.r.d. does not state directly, as it is in the Vienna Convention that every moving vehicle is required to have a driver; however, in Chapter 3 ("Vehicles Traffic") and 5 ("Procedures and Safety of Road Traffic")

section II of the Act, in majority of provisions (e.g. Article 16-19, 22-32, 38-39, 44, 45 section 2, 46, 47a, 50-52, 54, 57 section 2, 57a, 60 section 2, 64 section 4) obligations are imposed on a driver.

Consequently, it persuades a conclusion that the Polish legislator bounded the vehicle traffic with presence of a driver, ensuring harmonization with the Vienna Convention but without duplicating it. Therefore, at the present legal situation traffic of driverless vehicles is not permitted. Moreover, a list of a driver obligations (e.g. to stay at the place of an accident or to fasten seat belts) excludes a situation where, e.g. he/she is an organizational unit or a legal person. It is also discharged by the interpretation of the u.k.p provisions that specifies persons authorized to drive vehicles, where along with other requirements appear age and physical capabilities, being features assigned to human solely.

It should also be emphasized that in respect of binding regulations, a driver could not "stop driving" and rely entirely on the automated system. On the contrary - the driver must not take actions which could prevent him/her from personal driving a vehicle (taking control when necessary). It is confirmed by e.g. Article 17 section 2 of the u.p.r.d. which states, among others, that a vehicle driver, when joins the traffic, shall be particularly careful, as well as Article 45 section 2 (1) of the u.p.r.d. which prohibits handling a phone when driving, if it requires holding it by hand. Summing up, a vehicle in the traffic needs to have its driver and such a status would have to be granted to an automated vehicle operator (steward) - together with all obligations applicable to a person driving a standard vehicle.

Furthermore, technical requirements determined in the r.w.t.p. ought to be considered. Potentially, they could be problematic for an automated vehicle. e.g., under § 9 section 1,

item 12 (b): a vehicle is required to be equipped with a strong steering control system enabling a driver quick and unfailable change of the vehicle motion direction. It has to be equipped with: adjusted mirrors, seat belts (§ 11 section 1 of the r.w.t.p.) or brakes enabling a driver to brake (§ 14 section 1 of the r.w.t.p.).

Also some other condition for buses: at least one door on the right side, and in case of a regular municipal public transport bus - at least two doors), a fire extinguisher, an internal mirror for the driver, information on permitted number of passengers and seats, identified and properly fitted space for a disabled passenger on a wheelchair (§ 18 of the r.w.t.p.). Nonetheless, a low-speed vehicle does not have to be equipped with seat belts but it must be marked with a triangle-shape plate and a plate with of the vehicle owner identification data (§ 46 section 1 point 2 and § 52 section 1 and 6 of the r.w.t.p.).

It is worth mentioning that in conformance with § 8, section 4, item 2a of the r.w.t.p. seats may not be situated by their sides into the direction of drive, however, this obligation does not apply to buses with places designed for standing passengers.

As it has already been mentioned, a Minister for Transport may, in individual cases, enable a deviation from required technical requirements.

### 3. Issuing a special permit

As a result of the u.p.r.d. amendment, regulations concerning automated vehicles (Articles 65k-65n) comprising of provisions governing a special permit issuance "to carry out research works related with automated vehicles tests in a traffic and on public roads" were implemented into the Polish domestic law in January 2018 for the first time.

Definition of the automated vehicle specifies it as an automobile; thus, it means that the extent of this term does not include the low-speed vehicles (speed limited by construction up to 25 km/h). In the act it was emphasized that such tests may occur, especially, for needs of application of the automated vehicles to public transport and for performance of other public tasks. Besides the permit acquisition, safety requirements are to be met (an indeterminate term). Moreover, the permit does not implicate a consent to register such a vehicle; it is simply an agreement for conducting tests on special basis.

The permit is issued by an authority managing a traffic on a road, where tests / research works are supposed to take place - e.g. on public roads, within boundaries of district cities, with exemption of highways and major roads, a city mayor is an authority entitled to issue the consent.

The permit is issued at the of tests organizer request, taking into account data laid down in a statutory range (an organizer identification data, place, start and end date of the tests, planned route of an automated vehicle and a list of persons representing the organizer in protection of the vehicle route) and the organizer or its representative signature.

To the application for the permit there must be attached the tests organizer civil liability document the along with an evidence of paying the contribution (insurance is of conditional nature, it depends on attaining the permit), as well as (since July 2019) - a copy of decision on a professional vehicles registration issued by virtue of Article 80t section 2 of the u.p.r.d. Untill this time, a copy of a temporary vehicle registration, issued in concordance with Article 74, section 2 (3) of the u.p.r.d., is attached to the application for the permit to carry out research works.

Because of the Sohjoa Baltic project schedule, one should focus efforts on terms for obtaining a decision on professional vehicles registration. It is also a new institution in the Polish domestic law, dedicated to entrepreneurs dealing with production, distribution or tests of vehicles non-registered previously in Poland or abroad (approved by the TDT in order to carry out certification tests) or research units of vehicles, equipment or parts manufacturers carrying out relevant tests. It enables performing, for the definite time, test drives under filled in forms of a professional vehicle registration book. The most essential information, in the light of automated vehicle tests is that such drives may only take place by vehicles not registered previously in Poland or abroad (such a restriction is excluded from regulations on temporary registration binding by July 2019).

Taking into consideration the fact that the professional registration is one of circumstances to obtain a permit to conduct automated vehicles tests on public roads, the restriction in question may be a potential barrier to organize such tests since it enables test of new vehicles, which have never been registered. Additionally, regulations must be set down as far as they concern the issue whether the decision on the professional registration must be obtained by the same entity, which is an organizer of the research works applying for the permit - presently, there are no legal obstacles, however, this issue may induce controversies in practice.

Pursuant to Article 65l, section 5 of the u.p.r.d. an authority issuing the permit is obliged to consult commune residents, in the area of supposed tests. In the course of consultations, an owner of a real property located alongside the planned route, on which the automated vehicle is going to drive, an objection binding for the authority may raise. This issue is also a potential hazard for possibility of carrying out tests.

Other formal circumstances to issue the permit is acquiring a consent from a proper road managing authority (it is binding) and an opinion of the the police authority (it is not binding). Additionally, the permit is not issued if, despite formal requirements have been fulfilled, there is a risk that the tests may pose a hazard for human life and health or a valuable property (based on the same reason the permit may be suspended or canceled).

After receiving the permit, the research works organizer is obliged:

1. to enable the police operations necessary to assure the traffic safety and to protect human life and health as well as to protect the property at the time of tests;
2. to ensure that at the time of the automated vehicle tests, at the place intended for a driver there is a person authorized to drive, who can - at any moment - take control over the vehicle, in particular when there is a risk of hazard for the traffic;
3. to inform public opinion on planned tests and the the automated vehicle route;
4. after completed tests, within 3 months, provide the Head of the TDT a report on the course of the tests.

Due to a statement of the Polish government representative (answer to the interpellation no. 18240 by a member of parliament), the aforementioned regulation restricts possibility to register automated vehicles classified by the SAE classification as 3rd autonomic level vehicles. The entire regulation may be, however, problematic for automated vehicle tests.

Alternatively, in case it is unfeasible to acquire the permit pursuant to Article 65l of the u.p.r.d., other scenarios could be considered, e.g., carrying out tests beyond the area regulated by the u.p.r.d. (that is at certain internal roads or private areas), operate of the low speed vehicle for tests - under strictly supervised conditions - organization of an event focused on shows of the automated vehicle, which would result in road traffic closure (special way of roads exploitation - Articles

65-65j of the u.p.r.d.). Nevertheless, these are very imperfect solutions. In some cases, they may cause controversies.

Hence, amendment of the aforementioned regulations, concerning carrying out automated vehicles tests would be appreciated – especially in terms of holding a necessary decision on professional vehicles registration (it is mandatory to implement and enable, in the course of the permit granting procedure, acquiring e.g. a temporary registration addressed to automated vehicles, or any other registration also abroad), or to amend the legal definition of professional vehicles registration (to implement an exception for automated vehicles, extend scope of entities entitled to acquire the professional registration by e.g. self-government units and their organizational units).

## II PASSENGER TRANSPORTATION LAW

### 1. Need for a passenger transportation permit

The issue of the passenger transport taking place at the communal level is governed in Poland by a few legal acts: Among others, the k.c. (Article 776-778 – regulations on passenger transport), the u.p.p., u.t.d., u.p.t.z., as well as the act on railway transport of 28 March 2003, act on the marine safety of 18 August 2011, and act on the inland navigation of 21 December 2000.

To carry out passenger transport in Poland, it is required to obtain a permit to perform the road carrier profession (Article 5 section 1 of the u.t.d.). In turn, in case of domestic road transport in extent of transport by car or such vehicle structurally intended to transport more than 7 but not exceeding 9 persons including a driver, or a taxi, it is obligatory to acquire a special license (instead of the aforementioned permit) - Article 5b section 1 of the u.t.d.

A permit to perform the road carrier profession is essential yet not sufficient in case

of public transport considered to be regular passenger transport, taking place regularly and by means of defined transport route(s) or transport network. In the framework of the public transport people can be transported by road, railway or other rail means of transport (e.g. tramway, underground), cable transport (by means of aerial pulling cable) or cable-field, as well as by sea. Paying attention to the fact that a concept of automated buses implementation to the Polish public transport systems is clearly linked with functioning of the transport on public roads, also the u.t.d. and u.p.r.d. are essential for the issue in question.

In the light of u.p.t.z., organizers of the public transport are public authorities at various levels (e.g. communes), managing the transport in form of public utility carriages. Consequently, it means assurance of commonly available transport services intended to comply with, continuous, transport needs of a society in a particular area.

Public transport organizers are responsible for organization, management and planning of the public transport development within the area they operate. In the framework of the transport organization, several legal operations, related with assurance of proper conditions of its functioning, are enforced. In terms of possibility to apply automated passenger vehicles for public transport needs, a significant issue can be determination of stops for the public transport at particular routes. The law does not provide for assurance of public transport services beyond the system of stops determined in advance, which could be applied to automated vehicles in rural areas within the "last mile" transport.

Another important point in the field of transport services beyond urban areas can be a task the organizer is responsible for, namely, determination of fees for transport regarding statutory discounts and discounts valid in the area under a particular organizer management. Thus, there are no legal contraindica-

tions to set out tariff systems preferring carriages occurring at transport routes serviced by automated vehicles.

Basic task of the carriage's organizer is entering into contracts with so called public transport operators for providing services in terms of the public transport. An operator handling a particular route can function within an organizational structure of a particular self-government unit (or their union) - in form of self-governmental budget union. It can also operate as an individual entrepreneur on condition it is authorized to carry out business activity in the field of passenger transport. There are no contraindications that the entrepreneur-operator is a commercial company co-shared by a territorial self-government unit (or their union), that is so called internal entity (legally individual unit controlled by a relevant local authority) in the meaning of the Regulation (EC) no. 1370/2007.

Performing (road) public transport may also happen beyond the public utility transport - at commercial routes serviced by entrepreneurs defined as carriers. Such carriages are conducted by virtue of presently binding permits to carry out regular transport services, issued under Article 18 of the u.t.d. for the time not exceeding 5 years, by the authorized self-government units (depending on the range of planned transport services).

New regulations implemented to the u.p.t.z. (chapter 3 (3)), to be applied after a temporary period termination, (that is from 2019, however, it is possible to extend this period or even amend these provisions), assume implementation of previously unknown mode of commercial transport services legalization. It shall consist in approving, by a public transport organizer (competent for an area or range of carriages), of an application submitted by a carrier concerning an intent to render transport services for people at proposed transport route.

Together with regular carriages there are also classified regular special carriages (e.g. transport of students to schools/universities) which also require acquisition of the same permit (Article 18, section 1 of the u.t.d. - by virtue of the section 1a and since 2019, special transportations organized by the self-government units are to be released from this obligation). Carriages other than regular ones that is: shuttle (back and forth) and occasional ones require a special permit only when they go beyond the European Economic Area.

Obligations of holding a permit to provide regular transportation services and a permit to carry out the carrier profession were exempted by the u.t.d. in relation to carriages settled by means of cars or vehicle sets which, due to their structure, are designed to transport maximum 9 persons including a driver - in case of non-profit road passenger transport, as well as carriages organized by a person, who does not pursue the business activity, and carriages performed by medical rescue and sanitary transport teams. Still, regulations described in the u.p.t.z. are not applicable to regular passenger transport, e.g. for touristic goals.

## 2. Requirements for obtaining the permit

In concordance with the contract for rendering public transport services, an operator is trusted transport services of public utility nature. The contract sets out obligatorily, among other requirements relating to means of transport, involving conditions for modern technical solutions implementation. It is also possible to enforce an obligation of securing particular number and means of transport in order to arrange transport services. The organizer is entitled to establish terms and conditions of managing the public transport services by an operator, within the scope of particular bus category (theoretically, automated buses as well).

However, it should be emphasized that Article 18b, section 1, item 1 and section 2, item

1 of the u.t.d. stipulate that regular carriages within the domestic public transport can be put into effect only by buses corresponding required technical terms depending on the type of transport – inter alia, those established in the r.w.t.p. (other obligations are, for instance, time schedule publicly available at stops and stations on the way, letting passengers in and out only at stops set out in a time schedule or terms & conditions of carriages and a price list available on a bus).

Executing the public transport services by carriers, at commercial routes, is possible by virtue of a permit to carry out regular carriages, issued for the time not exceeding 5 years, by relevant authorities of the territorial self government (depending on range of planned carriages). As it has already been mentioned, since January 2019 the previous way of permit issuance shall be replaced by a mechanism consisting of approving, by a public transport organizer, a notification on an intent to carry out passenger transport at a proposed transport route submitted by a carrier. Furthermore, in this case, regulations impose on carriers a requirement of providing the transport organizer with information on means of transport to be used for the carriages (e.g. automated buses?). It is also necessary to establish stops or stations in order to service a proposed route. Similarly to the public utility transport, this circumstance does not promote future use of automated vehicles, in particular in rural areas, along with their full opportunities.

Both, in case of commercial and public utility transport services there comes a condition that an entrepreneur rendering the services shall be authorized to carry out business activity in this field (Article 4, section 1, item 8 and 11 of the u.t.d.). This obligation involves possessing a permit to perform the road carrier profession established in Article 5 of the u.t.d. In relation to presently binding permit to carry out regular passenger transport this requirement is defined directly in Article 21 section 2 of the u.t.d., referring to a decision

granting such a permit into the catalog of obligatory appendices to submitted application. A permit granting a right to carry out carriages of a particular category is issued for indefinite time by a Head of a given District competent for a carrier's registered office.

Requirements for the permit acquisition are described in the Regulation (EC) No. 1071/2009. In line with its provisions, entrepreneur engaged as road transport operator (carrier) shall:

1. have an existing and permanent registered office in a Member State;
2. be of good repute;
3. prove appropriate financial capacity; and
4. have the requisite professional competence (confirmed by a special exam).

As it has already been mentioned, an obligation to acquire a permit to carry out regular carriages as well as a permit to perform of the road carrier profession does not apply to certain types of the passenger transportation. This exemption comprises carriages by car vehicles or sets of vehicles, designed by their structure to transport not more than 9 persons including the driver - in case non-profit road carriage of persons, as well as carriages organized by persons who do not run the business activity and carriages conducted by medical rescue and sanitary transport teams. Provisions of the law on public transport are not applied to regular passenger transport for, i.a, touristic goals.

Other requirements estimated in Article 6 section 2 u.p.t.z. is necessity to hold required qualifications, containing qualifications to drive means of transport, arising from other regulations (more information in part III). Fulfilling this condition is necessary to render public transport services. When it comes to possibility of implementing automated vehicles to the public passenger transportation systems it seems to be a significant formal barrier.

### 1. Driving license

On account of Article 3, section 1, item 1 u.k.p., a driver can be a person, who, among others, holds a relevant document confirming its right to drive a vehicle. Such a document can be, most of all, the driving license (Article 4 section 1, item 1(a) u.k.p.). A driving license is classified into distinctive categories, enabling to drive, based on types and parameters (e.g. HP, engine volume, total mass, length or number of passengers) of vehicles. For instance, in order to drive a bus structurally designed to transport up to 17 persons including a driver, length of which does not exceed 8 m (irrespective of weight), one needs a driving license of D1 category. Obviously, in such a case one can hold D category of driving license, which entitles driving every bus. In turn, to drive a low speed vehicle, one can hold B, C1, C, D1, D or T driving license.

The aforementioned regulations also apply to automated vehicles. With regard to Article 65k of the u.p.r.d., an automated vehicle is a car vehicle equipped with a drive control system without a driver, however, a driver can take control over the vehicle at any moment. For this reason, the definition itself points out that a person staying in a vehicle is a driver. In turn, Article 65n, section 1, item 2 of the u.p.r.d. mentions "a person entitled to drive a vehicle, who is able to take control over the vehicle at any time". There is no doubt that the person in question must conform to the same obligations (and hold the same authorizations) as a driver of a standard (non-automated) vehicle.

### 2. Transport of passengers

In conformity with Article 39a, section 1 of the u.t.d. for road transport - and passenger transport by an entrepreneur or any other entity, a driver may be hired, who is at his/her required age (in case of driving a bus 21

or 23 years old), he/she holds proper authorization to drive a vehicle (driving license of a relevant category), he/she is in proper health and mental condition enabling him/her to work at the driver position, he/she got a qualification (preliminary or accelerated) and graduated from a periodic training (every 5 years starting from date of qualifications acquisition). Requirements referring to the age, qualification acquisition and the periodic training are not applied in case of, e.g. a driver of a vehicle, structure of which limits its speed up to 45 km/h or a vehicle subject of road tests for technical development executed by manufactures, R&D units or higher education institutions (Article 39a section 3 of the u.t.d.). In addition, a driver must not be subjected to a driver profession prohibition statement (Article 5, section 2 item 2 of the u.t.d.).

A driver is also obliged to obtain a qualification adjusted to a vehicle which he/she intends to drive so as to carry out the road transportation in terms of qualification schemes, defined for a driving license category (Article 39b, section 2 of the u.t.d.). On that account, the qualification does not replace the driving license but it poses a necessary supplement to it. The qualification includes theoretical and practical classes (on providing knowledge on technical properties and principles of vehicle safety elements operation or issues of passenger safety, etc.) as well as qualification tests (Article 39b, section 3 and Article 39b1 section 2 of the u.t.d.). A professional qualification certificate confirms its acquisition.

### 3. Standards for the driving behavior of the vehicle operator

The sole legal requirement addressed directly to the automated vehicle operator (steward) is that he/she must be able to take control over the vehicle at any moment, in particular, in case of a hazard for road traffic safety (Article 65n, section 1, item 2 of the u.p.r.d.). Thus, such a person can and must take over the vehicle in case of a hazard. Additionally,

pursuant to the same regulation, this person is obliged to stay in a vehicle (and not beyond it) and moreover, at a place intended for a driver (consequently, such a place in the vehicle needs to be provided).

Since the automated vehicle operator/steward has a status of the driver, his/her behavior during a drive is governed by all other legal regulations concerning a driver obligations-described in the u.p.r.d. (e.g. Article 16-19, 22-32, 38-39, 44, 45 section 2, 46, 47a, 50-52, 54, 57 section 2, 57a, 60 section 2, 64 section 4), and in particular those related with "staying alert" about the situation on a road or remaining careful, because if any system operation contrary to binding regulations is detected or such operation, which could result in a hazard for the road traffic, he/she will be obliged to take relevant actions.

### 4. Special safety training

Polish law does not provide for any (additional for casual drivers) training requirements for the automated vehicle drivers. Extra training would be appreciated, however, its formula shall be adjusted so as not to produce any additional barriers to carry out the automated vehicles tests.

## IV DATA PROTECTION LAW

### 1. Regulatory Framework

On 25 May 2018 personal data protection regulations, resulting from "General Data Protection Regulation", abbreviated as GDPR, were introduced in all European Union Member States.

The regulation is directly implemented in all European Union member states, and the particular states lawmakers were obliged to adjust the law to its requirements.

Thanks to these new provisions we all have better control over our data which is protected better. Owing to the aforementioned regulation, rules and guarantees regarding personal data protection were introduced.

Since GDPR defines practically any personal data processing, it pertains also to personal data processing in passenger transport.

## 2. Personal data and compliance with regulations on processing

General definition of „personal data” based on GDPR is as follows: ”any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.” GDPR also requires that during personal data processing – which also occurs during passenger transport by automated vehicles – the personal data shall be stored in specified, explicitly and legally justified purposes. The data shall be processed in diligent and transparent manner – including limiting the amount of data collected to the necessary minimum. The personal data cannot be stored for a period longer than necessary to achieve specific goals. Moreover, integrity and confidentiality must be maintained, and Personal Data Inspector must be appointed.

Personal data processing is legal only when:

- the person, to whom the data refers, agreed to personal data processing for one or several purposes,
- or
- processing is necessary to complete a task performed in public interest or as a part of exercising public authority entrusted to the controller.
  - within the scope of automated vehicles, the following possibilities of collecting and processing personal data, which shall be protected seeing GDPR regulations, are apparent:
  - location and navigation data (position, time and route, destination etc.)

The data itself does not constitute personal data in transport under GDPR, due to the fact that the vehicle location data does not allow for specific passengers’ verification. Nevertheless, if such verification is possible despite technology applied, such data becomes personal data protected by GDPR and shall require proper solutions introduced in accordance with GDPR.

Additionally, within the aforementioned scope, it ought to be pointed out that if a vehicle is provided with a of vehicle operating staff (i.e. vehicle operator/steward), then due to the personal specification, the operator is obliged to agree on personal data processing regarding the performed work. In this range it is possible, e.g. to introduce such agreement during concluding a civil law contract, on the grounds of which a given employee shall be employed.

- Data regarding the vehicle surrounding (other users of the road and pictures – images of people)

Data on the surrounding shall be stored by the vehicle monitoring system that regularly collects data from third entities (e.g. by recording everything, both outside and inside the vehicle). The above may thus pose a personal data processing problem due to the fact that obtaining consent of other road users or entities whose personal data was recorded while driving the vehicle, is unachievable. The cameras regularly gather data from third entities.

A solution to the aforementioned issue is a necessity to exclude and limit, as greatly as possible, the possibility of personal identification, as well as, a full anonymisation of people recorded by the vehicle. For this reason, it is necessary to search for a technical answer, which would address the question whether on the basis of current technology it is possible to implement such technical-IT solutions that would allow for anonymisation

on of, e.g. faces or to implement e.g. cameras recognizing only traffic information (e.g. differentiation between humans/animals, sizes, speed and direction of movement).

In the aforementioned scope, owing to GDPR regulations, a future legislative need (due to the technological development and its possibilities, which were not taken into consideration during formulating the law provisions as foreseeing new solutions in society is impractical) in the range of data storage and collection allowed for providing public services, becomes apparent. Presently, before implementing GDPR in Poland, parliamentary committees worked on devising a possibility of implementing monitoring in certain public institutions (e.g. in education), including face recognition because of public safety.

The current works on the aforementioned are being proceed and are to be presented in the European Parliament, due to a need of continuous monitoring, including the image of a certain person without anonymisation, still exists in certain public spheres.

- Data pertaining to passengers (particularly through accounting and clearance system, such as name, account data, booked/driven route etc., in case of using a mobile/Internet application – also any data regarding login, e-mail address, personal data, associated bank account).

Owing to passenger transport – passenger data may be stored by cameras during recording the inside of vehicle. In the first case the same criteria, specified with regards to the data from the surrounding outside the vehicle, are applied. The passengers' faces cannot be identifiable from the camera images.

With reference to accounting and clearing systems or using mobile applications to book rides, if storing the data would become necessary, a corresponding clause including

consent to manage and store personal data information, should be introduced, and the user should be obliged to accept it in order to use the transport service. This will solve the data collecting and processing problem.

It is recommended to place proper information on the personal data controller in vehicles.

## V LIABILITY LAW

### 1. Legal liability

The law provisions in Poland, which do not regulate the liability for accidents or violating traffic regulations are one of the limitations for introducing automated cars to the traffic. Poland, at present, has no specific regulations regarding liability for using an automated vehicle.

Nonetheless, before considering this scope it is necessary to stress, that the works on this scope are being proceed in parliamentary committees after members of parliaments' interpellations (e.g. question to the Prime Minister submitted by the MP Piotr Liroy-Marzec, calling for commencing works concerning automated vehicles). Their first result is introducing a regulation on electromobility and alternate fuels of 05 February 2018. Hence, Poland is aware of the need to develop law regulations within this scope.

The problem remains in respect of liability for automated vehicles – who should be responsible for potential consequences of traffic incidents – the owner, manufacturer or software author. As it was remarked, undoubtedly, we lack a thorough regulation of the civil liability for the automatised machines actions.

However, this area is not entirely unregulated. It has to be stressed though, that the current system is challenged by the actions, resulting from fully automated decisions of the vehicle operating system uninfluenced by an incorrect operation system functioning (e.g. damaged sensor) or obvious algorithm errors.

In case of such actions it is unobtainable to identify the proximate cause between human actions and the damage caused. Therefore, with regards to such damage, we will not be able to execute a majority of currently functioning legal liability institutions. A great number of liability regulations is based on a presupposition that is human activity provokes damage.

In case when the automated vehicles constitute a part of an enterprise, we cannot exclude the liability provided by Article 435 of the k.c., i.e. a person managing an independent company is liable for any damage provoked by the operation of the company. It is worth noting that the person managing the company may be acquitted from liability if the damage was produced solely at a third person's fault or as an effect of force majeure.

With regard to automated solutions being means of transport, the liability rules are indirectly specified by Article 436 of the k.c. which states that the owner of a vehicle accepts civil liability for the damage resulted from its movement. The regulation above involves a possibility of holding the vehicle owner liable because of risk.

At the same time it foresees outside circumstances, such as e.g. sole fault of third person or force majeure. It is also worth noting, that on account of Article 436 § 2 of the k.c. in case of a collision between vehicles, the liability is settled on account of fault, which may cause excluding the implementation of this provision with regards to the activities of automated cars. Irregardless of the above, it must be considered whether the liability of the owners of automated cars for the damage brought about is a right solution. The degree of control of the owners of these cars over their actions is significantly smaller than in case of regular vehicles.

Additionally, the automatised vehicles actions

may already cause liability for a dangerous product. This liability shall be mostly taken by the manufacturers. It is worth highlighting though, that in case of the liability for a dangerous product to emerge, specific reasons must occur.

In concordance with Article 4491 § 3 of the k.c., a dangerous product is one, which does not guarantee safety expected during a regular product handling. Whether the product is safe or not it is decided by the circumstances present during launching the product to the market and the information on the product features, provided to the client. The manufacturer is not responsible for a product, when its dangerous features were not foreseeable, taking into consideration the state of art and science at the moment of introducing the product. It can be assumed, with a great degree of probability that if the automated vehicle manufacturer proves that the algorithm in the operating system was designed with proper diligence and all the components worked correctly, the manufacturer can be acquitted from liability for automated decisions taken by the vehicle.

In situations when an obvious identification of proximate cause between the actions of an automated vehicle, which provokes damage, and the actions of particular people (e.g. creators of the algorithm or manufacturer of a defected component) is possible, it will be also available to claim particular people liable, including fault-based liability. As well, in case of finding that a certain vehicle action was induced by a damaged sensor, which in turn arose due to a lack of proper maintenance by the owner.

The comments above lead to a conclusion that valid law provisions regarding civil liability require adjusting them to damage resulting from the automated vehicles actions.

Some part of the existing provisions could be probably applicable to damage caused by automated vehicles, but it would often mean great legal doubts, which would certainly not contribute to increasing legal certainty.

Considering the regulations it is the automated vehicle holder (usually the owner) who would be liable for any damage provoked by automated vehicles, irregardles of the holder's ability to influence its movement. The current regulations will surely require amendments.

Thus, one of possible directions is transferring all or most of the liability for the damage induced by movement of such vehicle onto the manufacturer of vehicle or the driving system for it.

## 2. Insurance

Poland has regulations imposing an obligation of acquiring civil liability insurance for every motor vehicle on roads. The vehicle owner driving on public roads is obliged to own civil liability insurance.

In other words, presently the damage brought about by the car is not damage liable to the car, but to its driver. This means that the car user is at all times liable for damage to other traffic users. Every person driving a car is obliged to purchase an obligatory insurance, but the insurance and civil law consider only the responsibility of the vehicle driver.

Therefore, Poland lacks a specific legal regulation regarding an obligatory insurance system in the matter of liability for damage caused with an automated vehicle.

At this stage of automated cars development, it can be very difficult to find the probability of occurring damage due to a lack of sufficient data. On the other hand, it can be expected that a significant part of automated vehicles will actually lower the amount of damage. A car accident may occur due to a

blown tyre or incorrect car software operation, as well as improperly functioning sensors which may cause the car run into another traffic participant. This is why at present there is no homogenous regulation in this field. In such an event it would be necessary to leave the insurance of a vehicle driver and insure the liability of the vehicle manufacturer or the entity providing software for such a vehicle.

The insurance industry is aware of the future market requirements within this scope, and so the Polish lawmakers also see a need to govern the obligatory insurance in the future and undertake first non-exhausting law regulations regarding insurance of moving automated cars. And so, the first amendments to the u.p.r.d. were made. They allow for using the roads to research works on automated cars. At the same time this Law, as the first one in Polish legal system, defines an automated vehicle. In accordance with the Law it is a car-type vehicle, provided with systems controlling its movement and allowing for its movement without the driver's intervention, who in turn can take over the vehicle at any time (Article 65k of the u.p.r.d.).

Presently, the Polish law stipulates only that the research works organiser in connection with automated cars, together with the research permit application, shall submit "a document confirming concluding an obligatory the research works organiser civil liability insurance against any damage arose due to the research works regarding driving of automated vehicles, which is effective in case of obtaining a permit for research works".

The summary of the discussion above may lead to a conclusion, that while the idea of regulating the matter of testing automated vehicles on Polish roads is worth of approval, the area of this regulations is still an open question. In particular, it regards an imprecise definition, which does not reflect tendencies visible in the market, as well as is closed

to the dynamically developing situation.

The plan of devising a bureaucratic process of issuing permit (or consent) for research deserves criticism, as well. Still, there are no definite criteria, which should be fulfilled by the people submitting for a permit to conduct research works regarding technical matters of the vehicles. Moreover, the permit will be issued by an authority with no specialist knowledge in this field. The lawmakers point out that notifying authorities on conducting research and planned route alone will make the research safe for the environment. Yet, it also notices a need for a regulated obligatory insurance, which results in introducing the aforementioned requirement for the persons conducting the research.

To conclude, in Poland there are no ready legal solutions concerning automated vehicles. The first results of parliamentary committees in this field are being proceed and concern research works on such vehicles.

## VI Criminal law

Polish criminal system lacks specialist regulations in the matter of criminal responsibility for an accident caused by an automated vehicle.

In conformance with the k.k provisions, a person under criminal liability is only a person who commits a criminal offence under a threat of punishment provided for by a regulation valid during the time of committing an offence. The criminal offence culprit does not commit a crime if the guilt cannot be blamed during the offence. Undoubtedly, in the present legal state the criminal liability can be addressed only to a person and in some cases to collective entities under separate regulations.

Determining the persons responsible or a specific punishment is possible only potentially due to a lack of such vehicles in Poland

and no need for criminal regulation.

Owing to the currently valid law regulations we can identify only a potential group of persons liable in concordance with criminal law for causing a hazard in road traffic causing an immediate hazard in road traffic or the dispatcher permitting an unfit vehicle for traffic.

Due to the above mentioned it must be pointed out, that the potential criminal accusation in case of an accident induced by an automated vehicle can be submitted against:

- the vehicle manufacturer in terms of structural errors, vehicle flaws
- entity servicing the vehicle (repairperson) with regard to errors made during repairs and allowing the vehicle to use,
- the vehicle owner as to negligence of necessary vehicle repairs, maintenance and control,
- dispatcher in permitting an unfit (defective) vehicle,
- as well as against any other person, who could contribute to an accident with an automated vehicle,

While the above is possible on the ground of the following criminal law regulation provisions:

- Article 173 of the k.k. “§ 1. Every person who causes catastrophe in land, water or air traffic, which would be life- or health-threatening for many people or property on large scale, is liable to imprisonment for a period from 1 to 10 years”.

(Next, pursuant to § 2. “If the culprit acts unintentionally, the culprit is liable to imprisonment for a period from 3 months to 5 years”.

In turn, in § 3. „If the offence specified in § 1 results in human death or heavy damage to health for many people, the culprit is liable to imprisonment for a period from 2 to 12 years”, while “If the offence specified in § 2,<sup>30</sup>

results in human death or heavy damage to health of many people, the culprit is liable to imprisonment for a period from 6 months to 8 years”.

- Article 174 k.k.: § 1. A person who causes an immediate danger of catastrophe in land, water or air traffic is liable to imprisonment for a period from 6 months to 8 years.  
§ 2. If the culprit acts unintentionally, the culprit is liable to imprisonment for up to 3 years”.

- as well as Article 179 k.k. “A person, who, against a specific obligation, allows a mechanical vehicle or other vehicle in a state directly posing a danger in land, water or air traffic to use or allows for driving a mechanical vehicle or other vehicle on a public road, residential area or in a traffic zone by a person in the state of insobriety, under an influence of a narcotic drug or by a person without proper licenses, is liable for financial penalty, limitation of liberty or imprisonment up to 2 years”.

Summing up the above, the k.k. allows for criminal liability for people responsible for occurrence of a traffic catastrophe/accident and on account of already existing criminal regulations it is possible for any person, who

could in any way contribute to occurrence of an accident with an automated vehicle, to be held responsible.

Nonetheless, in case of allowing such vehicles to public traffic, the criminal regulations shall also require amendments in this range, particularly it is going to be necessary to specify the regulations regarding traffic offenses – criminal liability can be held only against a human.

It is, thus, going to be essential to clearly regulate the law in order to remove any doubts as to who should be liable for an accident with an automated vehicle – is it going to be its owner, its factual passenger, manufacturer or programmer of the software, which failed.

At the moment there is no specialist criminal legislation in this field and the aforementioned responsibility in case of an automated vehicle can be based on the regulations quoted above.

## Annex - Legal Inventory - Relevant Regulations from Poland

Title (English)	Title (Polish)	Abbreviation
Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products	Dyrektywa Rady 85/374/EWG z dnia 25 lipca 1985 r. w sprawie zbliżenia przepisów ustawowych, wykonawczych i administracyjnych państw członkowskich dotyczących odpowiedzialności za produkty wadliwe	Directive 85/374/EEC
Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles	Dyrektywa 2007/46/WE Parlamentu Europejskiego i Rady z dnia 5 września 2007 r. ustanawiająca ramy dla homologacji pojazdów silnikowych i ich przyczep oraz układów, części i oddzielnych zespołów technicznych przeznaczonych do tych pojazdów	Directive 2007/46/EC
Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)	Rozporządzenie Parlamentu Europejskiego i Rady (UE) 2016/679 z dnia 27 kwietnia 2016 r. w sprawie ochrony osób fizycznych w związku z przetwarzaniem danych osobowych i w sprawie swobodnego przepływu takich danych oraz uchylenia dyrektywy 95/46/WE (ogólne rozporządzenie o ochronie danych)	GDPR
Act of 23rd April 1964 - Civil Code	ustawa z dnia 23 kwietnia 1964 r. - Kodeks cywilny	k.c.
Act of 6th June 1997 - Criminal Code	ustawa z dnia 6 czerwca 1997 r. - Kodeks karny	k.k.
Ordinance of the Minister of Transport, Construction and Maritime Economy of 26th March 2013 on individual vehicle admission	rozporządzenie Ministra Transportu, Budownictwa i Gospodarki Morskiej z dnia 26 marca 2013 r. w sprawie dopuszczenia jednostkowego pojazdu	r.d.j.p.
Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70	Rozporządzenie (WE) nr 1370/2007 Parlamentu Europejskiego i Rady z dnia 23 października 2007 r. dotyczące usług publicznych w zakresie kolejowego i drogowego transportu pasażerskiego oraz uchylające rozporządzenia Rady (EWG) nr 1191/69 i (EWG) nr 1107/70	Regulation (EC) No 1370/2007
Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor	Rozporządzenie Parlamentu Europejskiego i Rady (WE) nr 661/2009 z dnia 13 lipca 2009 r. w sprawie wymagań technicznych w zakresie homologacji typu pojazdów silnikowych dotyczących ich bezpieczeństwa ogólnego, ich przyczep oraz przeznaczonych dla nich układów, części i oddzielnych zespołów technicznych	Regulation (EC) No 661/2009
Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the requirements to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC	Rozporządzenie Parlamentu Europejskiego i Rady (WE) nr 1071/2009 z dnia 21 października 2009 r. ustanawiające wspólne zasady dotyczące warunków wykonywania zawodu przewoźnika drogowego i uchylające dyrektywę Rady 96/26/WE	Regulation (EC) No 1071/2009
Ordinance of the Minister of Transport, Construction and Maritime Economy of 25th March 2013 on type approval of motor vehicles, trailers and its equipment items or elements	rozporządzenie Ministra Transportu, Budownictwa i Gospodarki Morskiej z dnia 25 marca 2013 r. w sprawie homologacji typu pojazdów samochodowych i przyczep oraz ich przedmiotów wyposażenia lub części	r.h.t.p.s.
Ordinance of the Minister of Infrastructure of 31st December 2002 on technical conditions of vehicles and range of its essential equipment	rozporządzenie Ministra Infrastruktury z dnia 31 grudnia 2002 r. w sprawie warunków technicznych pojazdów oraz zakresu ich niezbędnego wyposażenia	r.w.t.p.

## Annex - Legal Inventory - Relevant Regulations from Poland

Title (English)	Title (Polish)	Abbreviation
Act of 5th January 2011 on vehicles' drivers	ustawa z dnia 5 stycznia 2011 r. o kierujących pojazdami	u.k.p.
Regulations of UNECE - attachments to Agreement concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted under these United Nations Regulations, done at Geneva on 20th March 1958	Regulaminy EKG ONZ stanowiące załączniki do Porozumienia dotyczącego przyjęcia jednolitych wymagań technicznych dla pojazdów kołowych, wyposażenia i części, które mogą być stosowane w tych pojazdach, oraz wzajemnego uznawania homologacji udzielonych na podstawie tych wymagań, sporządzonego w Genewie dnia 20 marca 1958 r.	UNECE rules
Act of 20th June 1997 - Road Traffic Law	ustawa z dnia 20 czerwca 1997 r. - Prawo o ruchu drogowym	u.p.r.d.
Act of 15th November 1984 - Transport Law	ustawa z dnia 15 listopada 1984 r. - Prawo przewozowe	u.p.p.
Act of 16th December 2010 on public transport	ustawa z dnia 16 grudnia 2010 r. o publicznym transporcie zbiorowym	u.p.t.z.
Act of 6th September 2001 on road transport	ustawa z dnia 6 września 2001 r. o transporcie drogowym	u.t.d.
Act of 22nd May 2003 on compulsory insurances, the Insurance Guarantee Fund and the Polish Motor Insurers' Bureau	ustawa z dnia 22 maja 2003 r. o ubezpieczeniach obowiązkowych, Ubezpieczeniowym Funduszu Gwarancyjnym i Polskim Biurze Ubezpieczycieli Komunikacyjnych	u.u.o.
Convention on Road Traffic done at Vienna on 8th November 1968	Konwencja o ruchu drogowym, sporządzona w Wiedniu 8 listopada 1968 r.	