

SOHJOA BALTIC

LEGAL IMPLEMENTATION ROADMAP FOR DENMARK



SOHJOA BALTIC



EUROPEAN
REGIONAL
DEVELOPMENT
FUND

SOHJOA

BALTIC

Legal Implementation Roadmap for Denmark

AUTHORS

Malthe Broni Strandby
Boris Schønfeldt

ORGANISATION

Vejle Municipality



EUROPEAN UNION

EUROPEAN
REGIONAL
DEVELOPMENT
FUND

sohjoabaltic.eu



© Metropolia University of Applied Sciences & Authors
Creative Commons Licence CC BY-NC-SA 4.0

Publisher
Metropolia University of Applied Sciences 2018

Photos, cover, graphic design
Milla Åman, Metropolia UAS

ISBN 978-952-328-108-0 (pdf)

www.metropolia.fi/publications
www.sohjoabaltic.eu

Table of contents

Legal Implementation Roadmap for Denmark	
I Car registration law	6
1. Necessity and legal basis for the car registration	6
2. Non-compliance with the applicable regulations	7
3. Issuing a special permit	8
II Passenger transportation law	9
1. Need for a passenger transportation permit	9
III Personal legal requirements for the driver	10
1. Driving license	10
2. Transport of passengers	10
3. Standards for the driving behavior of the vehicle operator	11
4. Special safety training	11
IV Data protection law	12
1. Regulatory framework	12
2. Personal data and compliance with regulations on processing	12
V Liability law	13
1. Legal liability	13
2. Insurance	13
VI Criminal law	14
Annex	15
Legal I Inventory	15

Legal Implementation Roadmap for Denmark

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, Vejle Municipality gives an overview of the legal challenges that arise in Denmark when implementing automated buses in public transportation.

Each section summarizes the current legal situation in Denmark. The areas of law that are being examined are Car registration law (I), Passenger transportation law (II), Personal legal requirements for the driver (III), 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 Denmark.

I CAR REGISTRATION LAW

1. Necessity and legal basis for the car registration

THE LEGAL SITUATION IN DENMARK

- Vehicles - including buses - must have a car registration before driving on areas under the Traffic Road Act cf. KRL § 2.
- The vehicle does not need a car registration if it mostly drives outside public roads cf. KRL § 3, sec. 4. An exception to the car registration requires a permission, which is only given for a maximum period of six months.
 - A permission requires also an overview of the geographic area for the route for the vehicle.
- The car registration requires:
 - An official application of the vehicle owner cf. RL § 39
 - A motor vehicle liability insurance cf. RL § 48
 - Rectification of the registration charge cf. RL § 49

I CAR REGISTRATION LAW

2. Non-compliance with the applicable regulations

THE LEGAL SITUATION IN DENMARK

- As in Germany and Finland, in Denmark an automated driverless vehicle cannot obtain a car registration due to its non-compliance with regulations of European law (e.g., UNECE rules No. 79, 5.1.6) and international law (E.g. Vienna Convention on Road Traffic, Art. 8).
- As in Finland, every vehicle must have a responsible driver, but in testing automated vehicles, the driver can either be inside or outside the vehicle cf. FL § 92g.
 - In Denmark, a driverless vehicle is a vehicle, which is technically build to drive without a driver.

POLICY RECOMMENDATIONS

- Promoting the modification of the relevant regulations in the UNECE rules and the Vienna Convention on Road Traffic so that driverless vehicles are not forbidden under international law

I CAR REGISTRATION LAW

3. Issuing a special permit

THE LEGAL SITUATION IN DENMARK

1. Testing of automated vehicles (SAE levels 0-5) is possible with a special permit in FL § 92h.
2. The Minister of Transport, Building and Housing issues a special permit after a hearing with the police and road authorities.
3. An application for a special permit requires besides the original registration requirements:
 - Technical specifications of the test vehicles
 - A general description of the test plan including:
 1. The tests SAE levels A specific route map where the tests are intended to be conducted
 2. Traffic conditions
 3. Weather conditions
 4. A description of the test organization
 5. A plan for processing data collected through the test
 6. An accepted assessment concerning road safety consequences from an approved safety advisorance with additional statutory requirements are compulsory to obtain the permit.

II PASSENGER TRANSPORTATION LAW

1. Need for a passenger transportation permit

THE LEGAL SITUATION IN DENMARK

- Passenger transportation law is regulated in the RK and BKL.
- Normal or special route services require a permission, which is given after an application cf. RK § 1.
 - Normal route service is for every passenger
 - Special route service is only for certain categories of passengers (e.g. educators, employees or senior citizens)
- The application has to contain a description of the route, a timetable and informations about fares and the route service cf. RK § 3.
 - There are exemptions for passenger transport permissions if the route service only drives with employees (employee labor) or educators to a school.
- A commercial passenger conveyance permission is also required, if the bus is established to transport more than nine people including the driver cf. RK § 4 and BKL § 1.

III PERSONAL LEGAL REQUIREMENTS FOR THE VEHICLE OPERATOR

1. Driving license

THE LEGAL SITUATION IN DENMARK

1. The driver of the vehicle must have a driving license. Which type of driving license needed has to be determined according to the weight of the vehicle as well as the number of passengers.

2. When driving a vehicle with at length of eight meters and constructed for the transport of 16 passengers excluding the driver, a “Small Bus” driving license is required cf. KL § 15.

A. A “Small bus” driving license requires a standard driving license to a car and the age of 21 for the driver cf. KL § 26.

2. Transport of passengers

THE LEGAL SITUATION IN DENMARK

- Apart from the driving license, the Danish legal system demands an additional license for the driver for the transport of passengers.
- The additional license requires that the vehicle operator is minimum 21 years old and have passed a driving test for commercial conveyance of passengers cf. KL § 28.

III PERSONAL LEGAL REQUIREMENTS FOR THE VEHICLE OPERATOR

3. Standards for the driving behavior of the vehicle operator

THE LEGAL SITUATION IN DENMARK

- Test of a driverless vehicle implies attendance of a physical person, who can regain control over the vehicle, if the vehicle asks him to do so or if he appraise it cf. FL § 92g.
- The physical person shall further on observe the national rules for drunk driving and driving under the influence of psychoactive substances.
 - The physical person can participate either as a driver or as a vehicle operator for the automated vehicle.

4. Special safety training

THE LEGAL SITUATION IN DENMARK

- The driver/vehicle operator is not obliged to complete a special safety training.
 - However, the Minister of Transport, Building and Housing can determine special duties for the physical person, when assuming control over the vehicle.

IV DATA PROTECTION LAW

1. Regulatory framework

THE LEGAL SITUATION IN DENMARK

- Processing of personal data in a test for driverless vehicles will be a challenge because of the GDPR.
- The Danish Traffic Road Act mentions only collecting and processing of personal data, but nothing about the rules in GDPR.
 - It is therefore the holder of the test licenses responsibility that the rules of GDPR is observed.

2. Personal Data and compliance with regulations on processing

THE LEGAL SITUATION IN ALL EU-COUNTRIES

- The legal term “personal data” requires information relating to an identified or identifiable natural person.
- Processing of personal data is inter alia lawful if, the data subject has given consent to the processing or if the processing is necessary for the performance of a task carried out in the public interest.
- Cameras that film faces of individuals either outside or inside the vehicle should only store movement information about the persons that make it technically unfeasible to identify them individually.
- If software applications are used for e.g. the booking system, passengers need to give their consent to the processing of any personal data.

V LIABILITY LAW

1. Legal liability

THE LEGAL SITUATION IN DENMARK

- Directive 85/374 EEC on product liability has been implemented in Denmark in PAL.
- The liability for damages caused by a driverless vehicle enjoins the holder of the test license.
 - In contrast to the common liability rules in the Danish Road Traffic Act, the owner or the user cannot be responsible for damages, if these persons are different to the holder of the test license.
- There are national regulations that oblige the holder of the test license liability without fault.

2. Insurance

THE LEGAL SITUATION IN DENMARK

- Danish automated vehicle testing uses the normal mandatory traffic liability insurance.
- The liability insurer can make a direct claim against the manufacturer of the damage if it is based on a failure of the automated driving system or the vehicle.

VI CRIMINAL LAW

THE LEGAL SITUATION IN DENMARK

- In case of a driver or the driverless vehicle in a test cause damages, the Minister of Transport, Building and Housing can decide, who can be criminal liable for infringing the Traffic Road Act.
- Criminal liability in case of accidents for driverless vehicles may be ascribed to the
 - Vehicle operator
 - The manufacturer and his employees
 - The provider of the necessary data infrastructure
 - The driver
 - The holder of the test license
- The authorization for the minister entails that the driver, the physical person in the driverless vehicle that attend as a passive driver, the vehicle operator or the holder of the test license can be charged for acts or omissions, which normally is not punishable after the national Traffic Road Act.
- Under certain circumstances the holder of the test license can also be criminal liable without fault.
- Intent and negligence are prerequisites for criminal liability.

Annex - Legal Inventory - Relevant Regulations from Denmark

Title (English)	Title (Danish)	Abbreviation
Law no. 38 of 05.01.2017 on Road Traffic Act	Lovbekendtgørelse nr. 38 af 05.01.2017, Færdselsloven	FL
Executive order no. 477 of 02.05.2017 on Route Services	Bekendtgørelse nr. 477 af 02.05.2017 om rutekørsel	RK
Executive order no. 1498 of 13.12.2017 on Car Registration	Bekendtgørelse nr. 1498 af 13.12.2017 om registrering af køretøjer	RL
Law no. 261 of 20.03.2017 on Product Liability	Lovbekendtgørelse nr. 261 af 20.03.2017 om produktansvar	PAL
Law no. 1050 of 12.11.2012 on Bus Driving	Lovbekendtgørelse nr. 1050 af 12.11.2012 om buskørsel	BL
Law no. 720 of 30.05.2017 on Car Registration	Lovbekendtgørelse nr. 720 af 30.05.2017 om registrering af køretøjer	KRL
Executive no. 1372 of 26.11.2015 on Bus Driving	Bekendtgørelse nr. 1372 af 26.11.2015 om buskørsel	BKB
Executive order no. 815 of 21.06.2017 on Driving Licenses	Bekendtgørelse nr. 815 af 21.06.2017 om kørekort	KL
Law no. 266 of 21.03.2014 on Tort and Liability	Lovbekendtgørelse nr. 266 21.03.2014 om erstatningsansvar	EAL
Law no. 977 of 09.08.2017 on Criminal Code	Lovbekendtgørelse nr. 977 af 09.08.2017, Straffeloven	SL



LEGAL IMPLEMENTATION ROADMAP
FOR DENMARK