

Ordinance n° 2021-443 – liability regime and commissioning procedures for automated driving
14 april 2021 - Summary

Article 31 of Law No. 2019-1428 of 24 December 2019 on the orientation of mobility empowered the Government to take by ordinance, any measure falling within the scope of the law in order to adapt the legislation, in particular the highway code, in the case of the circulation on the public highway of land motor vehicles whose driving functions are, under conditions, in particular of time, place and circulation, predefined, partially delegated or fully to an automated driving system, in particular by defining the applicable liability regime.

As part of the preparation of the ordinance, a wide consultation of stakeholders was carried out with associations of elected officials, environmental associations, organizations representing professionals in the sectors involved, in particular « France Autonomous Vehicles » representing the industrial ecosystem of automated vehicles, individuals or collective transport, and user associations.

This ordinance specifies the criminal liability regime applicable during of the circulation of an automated vehicle, edicts conditions of use for automated driving systems and specifies provisions for the commissioning of highly automated road transport systems in dedicated paths or zones.

Article 1 specifies the respective criminal responsibilities of the driver and of the “system” : in substance, when the system is activated, the criminal liability of the vehicle manufacturer or its agent is engaged. Article 1 also provides for the conditions of access to the state data of delegation of driving to enforcement authorities to qualify the infringements of the highway code in the event of road control, to the manufacturer of the vehicle and to the holder of the certificate registration in the event of a violation.

Article 2 states conditions of admissibility of a request for exemption or complaint concerning a fine through a document certifying that an automated driving delegation system was activated in accordance with its conditions of use, at the time of the offense.

Article 3 indicates that the automated driving system is subject to conditions of use defined by the vehicle manufacturer, and that the decision to activate an automated driving system is taken by the driver, previously informed by the system that the latter is able to exercise dynamic control of the vehicle, in accordance with its conditions of use. This article requires the automated system, in the event of a malfunction or when its conditions of use are no longer fulfilled or probably no longer fulfilled during the execution of the maneuver, to alert the driver, to issue an handover request and, in case handover failure or in the event of serious failure, to put the vehicle in safety.

Article 4 sets the principle of information to the consumer prior to the sale or rental for automated vehicles.

Article 5 specifies the procedures for commissioning and operating a highly automated road transport system on dedicated paths or zones, and in particular procedures relating to the safety demonstration. It specifies that the automated road transport system is subject to conditions of use defined by the designer of the system and that remote intervention on these systems can only be carried out by an authorized person, holder of the driving license corresponding to the category of the vehicle considered.

Article 6 makes the provisions introduced by article 5 applicable to the transport of goods.

Article 7 defers the application of Articles 5 and 6 to the entry into force of the amendment to the Vienna Convention which would make it possible to impose that all automated systems comply with international or national technical security regulations. By September 2022, France will in any case have developed the necessary technical safety rules, based on the significant work already undertaken or ongoing.