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## **Federal Ordinance of 13 May 2022 on Automated Driving**

### **Full title**

Ordinance by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology on Framework Conditions for Automated Driving (Automated Driving Ordinance – Automatisiertes Fahren Verordnung, AutomatFahrV)

Original version: Federal Law Gazette II no. 402/2016

### **Section 1 Generalities**

#### **Scope of application**

§1 (1) The provisions of this Ordinance are to be applied to vehicles that comply with the use cases in Section 2 or 3 in which assistance systems or automated or networked driving systems are present. The use of such systems is only permitted if

1. these systems have been approved, are mass produced and can be classified under the use cases in Section 3 or
2. these systems are used for test purposes and can be classified under the use cases in Section 2.

(2) These systems must be executed such that compliance with the provisions of the Road Traffic Act 1960 (Straßenverkehrsordnung 1960, StVO, Federal Law Gazette no. 159/1960), the Railway Crossing Ordinance 2012 (Eisenbahnkreuzungsverordnung 2012, EisbKrV, Federal Law Gazette II no. 2016/2012) and the Air Pollution Control Act (Immissionsschutzgesetz-Luft, IG-L, Federal Law Gazette I no. 115/1997) is ensured in any case when using these systems.

(3) Vehicles in which assistance systems or automated driving systems are present may be tested on roads which are publicly accessible only if

1. insurance cover is provided by a civil liability insurer during the test drives and written confirmation by the vehicle insurer is carried that insurance cover according to the provisions of the Motor Vehicle Liability Insurance Act 1994 (Kraftfahrzeug-Haftpflichtversicherungsgesetz 1994, KHVG, Federal Law Gazette no. 651/1994) to the extent applied for is in place for test drives and
2. the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology is supplied with the following data before the test drives are conducted:
  - a) Details of the planned use case
  - b) Name of the testing facility
  - c) Contact person and contact details
  - d) Details of the driver of the vehicle to be used for the test drives
  - e) Registration number of the vehicle to be used for the test drives
  - f) Written confirmation by the vehicle insurer that insurance cover according to the provisions of the Motor Vehicle Liability Insurance Act 1994 (Kraftfahrzeug-Haftpflichtversicherungsgesetz 1994, KHVG, Federal Law Gazette no. 651/1994) to the extent applied for is in place for test drives
  - g) Total real, virtual and experimental test kilometres driven to date using the system to be tested
  - h) Start and end of the planned test period
  - i) Planned test route or test area
  - j) Infrastructure requirements
  - k) Evidence of route analysis, risk assessment and risk management.

(4) Systems for test purposes may be used on roads with traffic only if they have previously been tested sufficiently. The systems must have previously undergone sufficient simulated testing and testing on

private proving ground in comparable situations and in varying conditions and been found to be safe. Performance of a specified route analysis and risk assessment for the planned test route or the planned test area must be proved and the results are to be incorporated into risk management for the test plan. In the process, discrimination, restrictions and additional risks for active mobility (cycling, walking) must be precluded as far as possible. If corresponding evidence is produced, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology will issue a certificate for test drives on roads which are publicly accessible. This certificate must be carried during every test drive and handed to members of the public security or traffic surveillance services for verification on demand.

(5) Test drives may be conducted during the period applied for by the applicant. The certificate under paragraph 4 must state the test period in question.

(6) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology must be sent a report of the findings obtained after the end of the test period. In particular, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology must be informed immediately of critical situations and/or accidents that occurred during the test drives, and their causes.

(7) If test drives are conducted on motorways or expressways, before the test drives the applicant must inform the responsible road maintenance authorities and include them in the planning of the test project. The governor of the province must be informed in writing of the use cases that will be used for test purposes, on which roads, at what times and with which vehicles.

(8) If test drives are conducted on the secondary road network, at the latest one month before the test drive commences, the applicant must inform the governor of the province in writing of the use cases that will be used for test purposes, on which roads, at what times and with which vehicles. The governor has the option of expressing any concerns within one month of receiving the information. Appropriate account must be taken of these concerns.

§2 If terms in this Ordinance refer to natural persons, the form chosen shall apply to both sexes. When applying these terms to specific natural persons, the respective gender-specific form must be used.

### **Note for the following provision**

Paragraph 3 does not apply to persons who have already been used as test drivers before this provision came into force (cf. §13(2)).

#### **Driver**

§3 (1) Vehicles equipped with such systems may be used only if the driver takes the place intended for him as specified.

(2) The driver may transfer specific driving tasks to these systems, but always remains responsible for resuming his driving duties again.

(3) Only such drivers who are no longer in their probation period and who are appropriately trained and are familiar with the system in question may be used for test drives. In addition, these persons must provide proof of adequate driver training that is suitable for the use case in question and the specific test project and associated driving manoeuvres; this does not apply to Federal Ministry of Defence use cases.

(4) The driver must give his consent to data from the test vehicle's electronic steering equipment being recorded and stored during the test drives.

#### **Drives with vehicles that are not licensed for traffic**

§4 Vehicles in which assistance systems or automated or networked driving systems are present that are not licensed for traffic can be used with trade or test drive plates on roads with traffic.

#### **Accident data recorder**

§5 (1) In the cases in §1(1), line 2, every vehicle must be equipped with an accident data recorder, which must also be used during the test drive.

(2) Only data from the test vehicle's electronic steering equipment may be recorded using the accident data recorder. It must not be possible to modify this data.

(3) This data must be used exclusively for test purposes and to reconstruct critical situations or accidents. In connection with accidents, the investigating authorities and the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology must be provided on demand with the accident data for 30 seconds before and after the accident.

### Test data

§6 If video data is also recorded in addition to the data recorded under §5, this requires a permit from the data protection authority within the terms of §7(3) of the Data Protection Act (Datenschutzgesetz, DSG). In these cases, the license plates of the vehicles and people recorded must be obscured, unless obscuring them would be contrary to the purpose of the test. Recordings may only be used internally by the test organisation. The data may only be transferred within the scope of §1(6) and §5(3).

## Section 2

### Use cases for test purposes

#### Automated minibus

§7 (1) Within the terms of this Ordinance, an automated minibus is deemed to be a category M vehicle to carry a maximum of 15 people, equipped with a system capable of assuming all driving tasks at a speed of up to 20 km/h.

(2) This system may be tested by vehicle manufacturers, system developers, research institutions, transport companies and operators of bus routes.

*(N.B.: Para. 3 repealed by Federal Law Gazette II no. 143/2022)*

(4) The automated minibus may be tested on a predefined test route or in a predefined test area.

(5) As soon as the driver activates the system, all the driving tasks are transferred to the system. The system must therefore be capable of coping automatically with every driving situation.

(6) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(7) The system may be tested up to a maximum speed of 20 km/h. The actual permitted speed when testing is in any case based on the route analysis and risk assessment results.

(8) During the test period, people must be carried exclusively in the intended seats and not commercially. People in a wheelchair and people with a pram may be transported if appropriate safety measures ensure that there is no increased danger for all the vehicle occupants.

#### Automated vehicle for passenger transport

§7a (1) Within the terms of this Ordinance, an automated vehicle for passenger transport is deemed to be a category M1, M2 or L7e type-approved vehicle equipped with a system capable of assuming all driving tasks at a speed of up to 50 km/h.

(2) This system may be tested by vehicle manufacturers, system developers, research institutions, transport companies and operators of bus routes.

(3) The automated passenger vehicle may be tested on a predefined test route or in a predefined test area. The system must not be activated on motorways and expressways.

(4) As soon as the driver activates the system, all the driving tasks are transferred to the system. The system must therefore be capable of coping automatically with every driving situation.

(5) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(6) The system may be tested up to a maximum speed of 50 km/h. The actual permitted speed when testing is in any case based on the route analysis and risk assessment results.

(7) During the test period, people must be carried exclusively in the intended seats and not commercially. People in a wheelchair and people with a pram may be transported if appropriate safety measures ensure that there is no increased danger for all the vehicle occupants.

#### Automated vehicle for the transport of goods

§7b (1) Within the terms of this Ordinance, an automated goods vehicle is deemed to be a category L7e, N1, N2 and N3 vehicle equipped with a system capable of assuming all driving tasks at a speed of up to 30 km/h, up to 50 km/h in the case of type-approved vehicles, and used predominantly for goods traffic.

(2) This system may be tested by vehicle manufacturers, system developers, research institutions and goods carriage companies.

(3) The automated goods vehicle may be tested on a predefined test route or in a predefined test area. The system must not be activated on motorways and expressways.

(4) As soon as the driver activates the system, all the driving tasks are transferred to the system. The system must therefore be capable of coping automatically with every driving situation.

(5) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(6) The system may be tested up to a maximum speed of 30 km/h, up to 50 km/h in the case of type-approved vehicles. The actual permitted speed when testing is in any case based on the route analysis and risk assessment results.

(7) The provisions on securing loads must be observed. Transport of hazardous goods is not permitted.

#### **Motorway pilot with automated lane change**

**§8** (1) Within the terms of this Ordinance, a system that can assume longitudinal and transverse driving of the vehicle on motorways and expressways is deemed to be a motorway pilot with automated lane change.

(2) This system may be tested by vehicle manufacturers, system developers and research institutions.

*(N.B.: Para. 3 repealed by Federal Law Gazette II no. 143/2022)*

(4) As soon as the driver has driven onto the motorway or expressway and has integrated into the traffic flow, he may activate the system. Activating the system can transfer the following driving tasks to the system:

1. Longitudinal driving of the vehicle, such as acceleration, braking, stopping, distance control
2. Transverse driving of the vehicle, such as keeping in lane, changing lane, overtaking

(4a) Support for the automated driving functions from external roadside sensors and C-ITS communication is permitted.

(5) The driver must resume the driving tasks in good time before the exit of the motorway is reached.

(6) If a critical situation arises, the driver must resume the transferred driving tasks immediately.

(7) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(8) The system must be tested exclusively on motorways and expressways.

(9) The system may be tested on category M1, M2, M3, N1, N2 and N3 vehicles.

#### **Motorway pilot with automated driving on motorway on- and off-ramps and exits**

**§8a** (1) Within the terms of this Ordinance, a system that can assume longitudinal and transverse driving of the vehicle on motorway on- and off-ramps and exits is deemed to be a motorway pilot with automated driving on motorway on- and off-ramps and exits .

(2) This system may be tested by vehicle manufacturers, system developers and research institutions.

(3) Activating the system can transfer the following driving tasks to the system:

1. Longitudinal driving of the vehicle, such as acceleration, braking, stopping, distance control
2. Transverse driving of the vehicle, such as keeping in lane, changing lane, overtaking.

(4) Support for the automated driving functions from external roadside sensors and C-ITS communication is permitted.

(5) If a critical situation arises, the driver must resume the transferred driving tasks immediately.

(6) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(7) The system must be tested exclusively on motorways and expressways and on motorway or expressway on and off slip roads, for which approval from the responsible road maintenance authority is required.

(8) The system may be tested on category M1, M2, M3, N1, N2 and N3 vehicles.

#### **Autonomous Military Vehicle**

**§9** (1) Within the terms of this Ordinance, an autonomous military vehicle is deemed to be a category N1, N2, N3, T1, T2, T3, T4 or T5 vehicle equipped with a system capable of assuming all driving tasks itself or by means of remote operation. Self-driving civilian vehicles which serve the purposes of the military equate to autonomous military vehicles.

(2) This system may be tested by the Federal Ministry of Defence.

*(N.B.: Para. 3 repealed by Federal Law Gazette II no. 143/2022)*

(4) The system is intended to test the following functionalities:

1. Autonomous driving
2. Remotely operated driving
3. Driving in follow mode (automatic convoy)
4. Full power steering equipment within the terms of ECE Regulation no. 79 with purely hydraulic steering transmission, purely electric steering transmission or hybrid steering transmission.

In all the cases under lines 1 to 4, a driver must be present in each test vehicle and carry out his duties as driver according to §3.

(5) As soon as the driver activates the system, all the driving tasks are transferred to the system. The system must therefore be capable of coping automatically with every driving situation.

(6) If a critical situation arises, the driver must resume the transferred driving tasks immediately.

(7) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(8) The system may be tested on all types of road.

#### **Automated valet parking**

**§9a** (1) Within the terms of this Ordinance, a system that can assume the longitudinal and transverse driving of a category M1 vehicle in order to move it from a handover point into a parking space and back again is deemed to be an automated valet parking. The permitted maximum speed is limited to 10 km/h.

(2) This system may be tested by vehicle manufacturers, system developers, research institutions, transport companies and operators of multistorey car parks and car parks.

(3) The system may be tested on a predefined area or site (e.g. in a car park or multistorey car park).

(4) As soon as the driver activates the system, all the driving tasks are transferred to the system. The system must therefore be capable of coping automatically with every driving situation. In addition to the vehicle sensors, the system can also use sensors on roads and buildings. System components inside and outside the vehicle can decide the route.

(5) As soon as the system is activated, the driver is released from the obligations to take the driver's seat and to take firm hold of the steering device with at least one hand during driving. As soon as the system is activated, the driver must be in close proximity to the vehicle and monitor all driving movements.

(6) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(7) If the system uses communications devices between the vehicle and the infrastructure, these must correspond to the state of the art and be protected from unauthorised external access.

(8) The system may be tested on category M1 vehicles and up to a maximum speed of 10 km/h. The actual permitted speed when testing is in any case based on the route analysis and risk assessment results.

#### **Automated working machine**

**§9b** (1) Within the terms of this Ordinance, an automated working machine is deemed to be a self-driving working machine equipped with a system capable of assuming all driving tasks at a speed of up to 20 km/h and used predominantly for performing work processes.

(2) This system may be tested by vehicle manufacturers, road maintenance organisations, system developers and research institutions.

(3) The automated working machine may be tested on a predefined test route or in a predefined test area.

(4) As soon as the system is activated, all the driving tasks are transferred to the system. The system must therefore be capable of coping automatically with every driving situation.

(5) There must be an emergency device present with which the system can be deactivated. If a critical situation arises, the driver must operate the emergency device immediately.

(6) The system may be tested up to a maximum speed of 20 km/h. The actual permitted speed when testing is in any case based on the route analysis and risk assessment results.

(7) The driver may be outside of the vehicle if he has an overview of the traffic situation and he can intervene in steering the vehicle at any time, as long as the system is activated and at a maximum speed of 10 km/h. The driver must be in close proximity to the vehicle and monitor all driving movements.

### Section 3

#### Applications for Systems in Series Production

##### Parking assistant

**§10** (1) Within the terms of this Ordinance, a system that can assume driving tasks when driving a vehicle into and out of a parking space, using an automatic steering function according to ECE Regulation no. 79, is deemed to be a remote controlled parking system.

(2) The system may only be used to drive the vehicle into and out of a parking space.

(3) As soon as the driver activates the system, individual or all of the driving tasks when driving into and out of a parking space are transferred to the system. The system must therefore be capable of coping automatically with all the driving tasks transferred to it when driving into and out of a parking space.

(4) As soon as the system is activated, the driver is released from the obligations to take the driver's seat and to take firm hold of the steering device with at least one hand during driving. As soon as the system is activated, the driver must be in close proximity to the vehicle and monitor the parking process.

(5) There must be an emergency device present with which the system can be immediately deactivated or overridden. If a critical situation arises, the driver must operate the emergency device immediately.

(6) The system may only be used according to the manufacturer's instructions and only up to a maximum speed of 10 km/h.

(7) The system may be used on all types of road.

(8) The system may be used in category M1 and N1 vehicles.

##### Motorway assistant with automatic lane keeping

**§11** (1) Within the terms of this Ordinance, a system that can assume longitudinal driving of the vehicle, such as acceleration, braking, stopping, distance control, and transverse driving of the vehicle to keep in lane using an automatic steering function within the terms of ECE Regulation no. 79, on motorways and expressways, is deemed to be a motorway assistant with automatic lane keeping.

(2) As soon as the driver has driven onto the motorway or expressway and has integrated into the traffic flow, he may activate the system.

(3) As soon as the system is activated, the driver is released from the obligation to take firm hold with at least one hand of the steering device during driving.

(4) The driver must resume the driving tasks in good time before changing lane, before areas of roadworks and before the exit of the motorway is reached.

(5) There must be an emergency device present with which the system can be immediately deactivated or overridden. If a critical situation arises, the driver must operate the emergency device immediately and assume the transferred driving tasks.

(6) The system may only be used according to the manufacturer's instructions and exclusively on motorways and expressways, but not in areas of roadworks.

(7) The system may be used in category M1, M2, M3, N1, N2 and N3 vehicles.

### Section 4

#### Concluding provisions

##### Entry into force

**§12** (1) §1(1), (7) and (8), §6, the heading to Section 2, §7(2), §9(4) and Section 3 plus heading as contained in the version of the Ordinance in Federal Law Gazette II no. 66/2019 shall come into force on 11 March 2019.

(2) §1(3), line 2 letters i and k, paragraphs 4 and 6, §3(3), §5(3), the heading to §7, §7(1), 4, 7 and 8, §§7a and 7b, each plus heading, §8(4a), §8a plus heading, §9(1,2), §§9a and 9b, each plus heading, the paragraph name for §§12(1) and 13 plus heading as contained in the version of the Ordinance in Federal Law Gazette II no. 143/2022 shall come into force on expiry of the day the said Ordinance is announced as coming into force; at the same time §7(3), §8(3) and §9(3) shall cease to have effect.

##### Transitional provisions

**§13** (1) §1(4) as contained in the version of the Ordinance in Federal Law Gazette II no. 143/2022 shall apply only to test cases for which a test authorisation is issued after this provision comes into force.



(2) The provision of §3(3) as contained in the version of the Ordinance in Federal Law Gazette II no. 143/2022 shall not apply to persons who have already been used as test drivers before this provision came into force.